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Illinois Register

Rules of Governmental Agencies

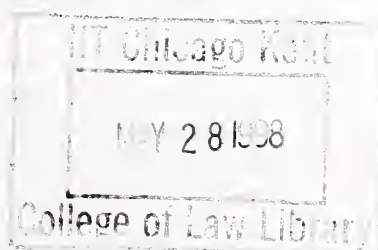
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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

| | |
|--------------------------------------|----------------------------|
| April 17, 1998 - Issue 16: Through | March 31, 1998 |
| July 17, 1998 - Issue 29: Through | June 30, 1998 |
| October 16, 1998 - Issue 42: Through | September 30, 1998 |
| January 15, 1999 - Issue 3: Through | December 31, 1998 (Annual) |

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1998

| Material Rec'd before Noon on: | Will be in Issue #: | Published on: | Material Rec'd before Noon on: | Will be in Issue #: | Published on: |
|-----------------------------------|------------------------|------------------|-----------------------------------|------------------------|------------------|
| Dec. 23, 1997 | 1 | Jan. 2, 1998 | June 30, 1998 | 28 | July 10, 1998 |
| Dec. 31, 1997 | 2 | Jan. 9, 1998 | July 7, 1998 | 29 | July 17, 1998 |
| Jan. 6, 1998 | 3 | Jan. 16, 1998 | July 14, 1998 | 30 | July 24, 1998 |
| Jan. 13, 1998 | 4 | Jan. 23, 1998 | July 21, 1998 | 31 | July 31, 1998 |
| Jan. 20, 1998 | 5 | Jan. 30, 1998 | July 28, 1998 | 32 | Aug. 7, 1998 |
| Jan. 27, 1998 | 6 | Feb. 6, 1998 | Aug. 4, 1998 | 33 | Aug. 14, 1998 |
| Feb. 3, 1998 | 7 | Feb. 13, 1998 | Aug. 11, 1998 | 34 | Aug. 21, 1998 |
| Feb. 10, 1998 | 8 | Feb. 20, 1998 | Aug. 18, 1998 | 35 | Aug. 28, 1998 |
| Feb. 17, 1998 | 9 | Feb. 27, 1998 | Aug. 25, 1998 | 36 | Sept. 4, 1998 |
| Feb. 24, 1998 | 10 | Mar. 6, 1998 | Sept. 1, 1998 | 37 | Sept. 11, 1998 |
| Mar. 3, 1998 | 11 | Mar. 13, 1998 | Sept. 8, 1998 | 38 | Sept. 18, 1998 |
| Mar. 10, 1998 | 12 | Mar. 20, 1998 | Sept. 15, 1998 | 39 | Sept. 25, 1998 |
| Mar. 17, 1998 | 13 | Mar. 27, 1998 | Sept. 22, 1998 | 40 | Oct. 2, 1998 |
| Mar. 24, 1998 | 14 | Apr. 3, 1998 | Sept. 29, 1998 | 41 | Oct. 9, 1998 |
| Mar. 31, 1998 | 15 | Apr. 10, 1998 | Oct. 6, 1998 | 42 | Oct. 16, 1998 |
| Apr. 7, 1998 | 16 | Apr. 17, 1998 | Oct. 13, 1998 | 43 | Oct. 23, 1998 |
| Apr. 14, 1998 | 17 | Apr. 24, 1998 | Oct. 20, 1998 | 44 | Oct. 30, 1998 |
| Apr. 21, 1998 | 18 | May 1, 1998 | Oct. 27, 1998 | 45 | Nov. 6, 1998 |
| Apr. 28, 1998 | 19 | May 8, 1998 | Nov. 3, 1998* | 46 | Nov. 13, 1998 |
| May 5, 1998 | 20 | May 15, 1998 | Nov. 10, 1998 | 47 | Nov. 20, 1998 |
| May 12, 1998 | 21 | May 22, 1998 | Nov. 17, 1998 | 48 | Nov. 30, 1998* |
| May 19, 1998 | 22 | May 29, 1998 | Nov. 24, 1998 | 49 | Dec. 4, 1998 |
| May 26, 1998 | 23 | June 5, 1998 | Dec. 1, 1998 | 50 | Dec. 11, 1998 |
| June 2, 1998 | 24 | June 12, 1998 | Dec. 8, 1998 | 51 | Dec. 18, 1998 |
| June 9, 1998 | 25 | June 19, 1998 | Dec. 15, 1998 | 52 | Dec. 28, 1998* |
| June 16, 1998 | 26 | June 26, 1998 | Dec. 22, 1998 | 1 | Jan. 4, 1999* |
| June 23, 1998 | 27 | July 6, 1998* | Dec. 29, 1998 | 2 | Jan. 8, 1999 |

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

* Monday

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

1) Heading of the Part: Administrative Case Reviews and Court Hearings

2) Code Citation: 89 Ill. Adm. Code 316

3) Section Numbers: Proposed Action:

| | |
|---------|-----|
| 316.10 | New |
| 316.20 | New |
| 316.30 | New |
| 316.40 | New |
| 316.50 | New |
| 316.60 | New |
| 316.70 | New |
| 316.80 | New |
| 316.90 | New |
| 316.100 | New |
| 316.110 | New |
| 316.120 | New |
| 316.130 | New |
| 316.140 | New |

4) Statutory Authority: 20 ILCS 505; 705 ILCS 405; 325 ILCS 5; 750 ILCS 50

5) A Complete Description of the Subjects and Issues Involved: These new rules replace the administrative case review sections of current rules in 89 Ill. Adm. Code 305 (Client Service Planning) that are being repealed and add requirements for Department participation at juvenile court hearings and court permanency hearings.

6) Will these proposed rules replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jerry B. Crabtree
Office of Rules and Procedures

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

Department of Children and Family Services
406 East Monroe, Station #65
Springfield IL 62701-1498
(217) 524-1983

TTY: (217) 524-3715
Internet address: ORPINFO@pop.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Child welfare agencies who contract with the Department

B) Reporting, bookkeeping or other procedures required for compliance: Caseworkers must complete written service plans that must be filed with the juvenile court and others as specified in the rules.

C) Types of professional skills necessary for compliance: Casework skills necessary to conduct complex assessments of children who are placed in substitute care and their families, to engage families in helping relationships, to develop and monitor service plans, evaluate progress made by parents, and make decisions affecting the best interests of children.

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER a: SERVICE DELIVERY

PART 316

ADMINISTRATIVE CASE REVIEWS AND COURT HEARINGS

| Section | Purpose |
|---------|--|
| 316.10 | Definitions |
| 316.20 | Administrative Case Review System |
| 316.30 | Frequency of Administrative Case Reviews |
| 316.40 | Conduct and Participation at Administrative Case Reviews |
| 316.50 | Notice of Administrative Case Reviews |
| 316.60 | Roles and Responsibilities of the Administrative Case Reviewer |
| 316.70 | Caseworker Responsibilities at the Administrative Case Review |
| 316.80 | Decision Review |
| 316.90 | Appealability of Decisions |
| 316.100 | The Department's Role in the Juvenile Court |
| 316.110 | Permanency Hearings |
| 316.120 | Caseworker Responsibilities at the Permanency Hearing |
| 316.130 | Compliance with the Client Service Planning Requirements |
| 316.140 | |

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5], Section 7.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.1], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 U.S.C. 675), Section 2-5 of the Juvenile Court Act of 1987 [705 ILCS 405/2-5], and Section 1 of the Adoption Act [750 ILCS 50/1].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

Section 316.10 Purpose

The purpose of this Part is to describe the independent review processes required by federal and State law for the purpose of ensuring that children and families who receive services from the Department or its provider agencies have participation and periodic review to determine and ensure safety, well-being, and permanency.

Section 316.20 Definitions

"Administrative case review" means a review of permanency planning open to the participation of the parents of the child, conducted by a person who is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the

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subjects of the review. (42 U.S.C.A. 675) The administrative case review is also open to the participation of other professionals involved in assessing or treating the child, any legal representative of the parent or child, and the foster parents as specified in Section 316.50 (Administrative Case Reviews).

"Administrative case reviewer" means a trained professional who is not responsible for the case management of, or delivery of services to, either the child or the parents who are the subjects of the review.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Family" means one or more adults and children, related by blood, marriage or adoption and residing in the same household.

"Parents" means the child's legal parents, including adoptive parents, whose rights have not been terminated. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Service plan" means a written plan on a form prescribed by the Department that guides all participants in the plan toward the permanency goals for the children.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301.80 (Relative Home Placement), care provided in a group home, and care provided in a child care or other institution.

Section 316.30 Administrative Case Review System

- a) The Department has an administrative case review system for all the children in placement and their families. Administrative case reviews are conducted for children living in foster family homes, relative homes, group homes, child care institutions, youth emergency shelters, or detention, correctional, mental or physical health related facilities. In addition, the Department may elect to conduct administrative case reviews on other groups of children as fiscal and

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staffing resources permit.

- b) Case reviews are conducted in order to:
 - 1) assure that parents and the children (if participating in the planning) are involved in and collaborating in development of the plan and understand and discuss the plan and know what is expected of them;
 - 2) review whether the Department's continuing intervention is necessary;
 - 3) review whether services, including placement services, are necessary, relevant, coordinated, and appropriate and address the health and safety needs of the child;
 - 4) identify services needed but that are not being provided to the child or family and the reasons why they are not being provided;
 - 5) review the disability status of a child to determine the need for and/or appropriateness of specialized services;
 - 6) review the appropriateness of the child's educational placement and the child's educational progress and recommend changes to the caseworker;
 - 7) review health information on the child and family;
 - 8) review any special physical, psychological, educational, medical, emotional, or other needs of the minor or his or her family that are relevant to a permanency or placement determination;
 - 9) review, for any minor age 16 or over, programs or services that will enable the minor to prepare for independent living;
 - 10) review whether the Department, the service providers, the family, the substitute care provider, if any, and the child are complying with the service plan and, if they are not complying, whether changes in the service plan or goals are needed;
 - 11) review whether there is progress to resolve the child's and family's problems and whether the progress is satisfactory and whether the child can safely return home;
 - 12) review whether the projected month for achieving the permanency goal should be changed;
 - 13) review the appropriateness of the permanency goal and recommend changes in the goal (if appropriate);
 - 14) review and finalize the service plan for the next period, including an analysis of:
 - A) the appropriateness of the services contained in the plan and whether those services have been provided and, if not, why not;
 - B) whether reasonable efforts by the Department, and reasonable progress by the family, have been made to achieve the goal;
 - C) whether the plan and goal have been achieved;
 - 15) refer the case for a family meeting as described in 89 Ill. Adm. Code 315.120 (Family Meetings) when one has not been conducted; and
 - 16) report findings and make recommendations.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Section 316.40 Frequency of Administrative Case Reviews

- a) The first administrative case review shall be conducted within 90 days after the temporary custody hearing.
- b) The second administrative case review shall be conducted within six months after the temporary custody hearing.
- c) Following the six month administrative case review, administrative case reviews shall be conducted every six months thereafter.

d) Additional Administrative Case Reviews

The Division of Administrative Case Review may schedule more frequent case reviews in both Cook County and counties other than Cook on cases that may require more than the scheduled six-month review. Such cases may be ones in which it is important that follow-up to the recommendations made at the last administrative case review is monitored. For example, cases for which concurrent planning, as described in 89 Ill. Adm. Code 315 (Permanency Planning) is being utilized. The caseworker and supervisor must attend administrative case reviews scheduled by the Division of Administrative Case Review outside of the normal cycle.

Section 316.50 Conduct and Participation at Administrative Case Reviews

Administrative case reviews shall:

- a) be convened by a professional staff member from the Department's Division of Administrative Case Review;
- b) include the worker and/or supervisor from the Department and/or the substitute care provider agency that has case responsibility for both the children and the family;
- c) be open to the participation of the children's parents and their representatives. However, if parents are known to be violent and potentially dangerous to other participants in the review, they will be excluded. If the Department has filed a petition seeking the termination of parental rights, these parents will be invited to the review until the finalization of the termination process;
- d) be open to the participation of children 12 years of age or older with consideration given to the material in the review and the benefits of having the child present. Younger children may attend if the caseworker and supervisor determine that the child can benefit from participation in the review process;
- e) be open to the participation of the foster parents or relative caregivers in the section of the review for the child in their care. Foster parents or relative caregivers may be able to participate in other segments of the review involving the child's family provided that the information being presented at the review is essential for understanding the needs of and providing care to the child. When a positive relationship exists between the foster parent or relative caregiver and the child's family, the child's family may consent to disclosure of additional information [20 ILCS 520/1-9] in accordance

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- with the consent provisions of 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department);
- f) be open to the participation of the child's guardian ad litem or legal representative for the child's section of the review. The guardian ad litem or legal representative may participate in other segments of the review involving other members of the child's family if the child's family consents to their participation in accordance with the consent provisions of 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department);
 - g) be conducted in the office serving the parent's county of residence, if known, unless the parent agrees to travel to another office that is within the State of Illinois;
 - h) focus on the issues described in Section 316.30 (Administration Case Review System); and
 - i) be recorded by a written report of their findings.

Section 316.60 Notice of Administrative Case Reviews

A written notice of the date, time, place and purpose of the administrative case review shall be mailed within 21 calendar days prior to the review to ensure that the notice is received 14 days prior to the scheduled review to the following:

- a) the parents. The notice shall also inform them of their rights to bring a representative with them to the review;
- b) the child, if participating in the review per Section 316.50(d);
- c) the child's foster parents or relative caregiver;
- d) the purchase of service provider agency caseworker (if applicable); and
- e) the child's legal representative. The caseworker is responsible for providing the name and address of the child's legal representative and all parties that are to be invited to the review.

Section 316.70 Roles and Responsibilities of the Administrative Case Reviewer

- a) The administrative case reviewer has the responsibility and authority to manage the case review process, which includes:
 - 1) excluding or limiting participation, as needed, to those with a right to share in the process, or excluding or limiting participation of any individual when necessary to promote the achievement of the purposes of the review;
 - 2) convening and conducting a review in such a way as to encourage discussion and participation while respecting the rights and culture of all participants;
 - 3) maintaining the focus of the group on the service plan with good time management; and
 - 4) advising clients and other participants of their rights and providing an explanation of the purposes of the administrative case review process, assuring disclosure.

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- b) The administrative case reviewer shall ensure that the review complies with Department rules and procedures and is consistent with good child welfare practice and in compliance with 42 U.S.C. 675 and any State or federal court consent decree affecting Department practice. This responsibility includes:
 - 1) ensuring that the purposes of the administrative case review are carried out;
 - 2) determining that the goal and the evaluation of progress are consistent with the facts of the case as presented at the administrative case review, that the outcomes, tasks and time frames are appropriate for the goal, and amending or changing the case plan accordingly;
 - 3) recommending modification or change in the case plan, when in the reviewer's professional judgement the plan or goal is insufficient based on information presented at the review. The reviewer, however, may not change a permanency goal established by the court;
 - 4) convening administrative case reviews sooner than the regularly scheduled case reviews when the facts of the case indicate the need for a review;
 - 5) recommending a family meeting as described in 89 Ill. Adm. Code 315.120 (Family Meetings); and
 - 6) providing a written report of their findings.

Section 316.80 Caseworker Responsibilities at the Administrative Case Review

The caseworker's responsibilities at the administrative case review will be to:

- a) present a completed service plan, based on the assessment and developed in collaboration with the family;
- b) present a recommendation regarding the permanency goal;
- c) report on the placement, best interests, health, safety, and well-being of the child;
- d) report on the progress of the parent to date toward changing the behaviors and conditions that require the child to be in out-of-home care;
- e) provide a statement as to whether the child can return home, and, if so, when and with what supports;
- f) provide the casework rationale and supporting documentation for all decisions and recommendations.

Section 316.90 Decision Review

- a) When a service provider, including foster parents or relative caretakers, or the child's caseworker with supervisory approval, disagrees with any portion of the service plan, including any amendments made by the administrative case reviewer, the provider will be entitled to a review of the issue. Amendments that are the result of decisions made by the court at the permanency hearing or are the

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result of any other court order are not subject to a decision review.

b) Requests for a decision review shall be directed, within five working days after the administrative case review, to the Deputy Director of Administrative Case Review.

c) A decision review conference shall be held within ten working days after the receipt of the request. A final decision will be made by the Deputy Director of Administrative Case Review or designee, within ten working days after the conference.

d) Except when an issue affects compliance with a court order or the residual rights of parents, implementation will be stayed until the decision review conference is held. The residual rights of parents as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] include the rights to visitation, to consent to adoption and to determine the minor's religious affiliation.

e) If changes to the service plan are required by the decision review, copies of the changes will be sent to all those who are entitled to a copy of the service plan with a notice of the specific changes made, the reason for the changes and a statement of the right to appeal any such changes.

Section 316.100 Appealability of Decisions

When children and/or parents disagree with any portion of the service plan resulting from recommendations made at the administrative case review, they may request a hearing in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process).

Section 316.110 The Department's Role in the Juvenile Court

a) The Department shall inform the Juvenile Court of the Department's planning for the children and families it serves and of their progress toward those goals.

b) When in the Juvenile Court, the Department shall provide information and recommendations to the court and the parties and shall recommend that the court keep families together in all instances when it is consistent with the children's best interests, health, safety, and well-being. In those instances when children must be removed from their parent's care, the Department shall recommend that the court reunite children for whom the Department is legally responsible with their families as soon as returning home is consistent with their best interests, health, safety and well-being. Finally, when it is clear to the Department that the child's health and safety needs cannot be met by the parents and it is in the child's best interests, the Department will provide that information to the court and recommend that the court establish other permanency goals.

c) When the Department has legal responsibility for a child, a representative of the Department or its provider agency shall attend all hearings required by the court. At each hearing the Department or

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its provider agency shall provide information relating to the child's placement, best interests, health, safety, and well-being, and make any appropriate recommendations. Such hearings include:

- 1) the temporary custody hearing;
- 2) the adjudicatory hearing;
- 3) the dispositional hearing;
- 4) permanency hearings (as described in Section 316.120 below); and
- 5) all other hearings the court may require.

Section 316.120 Permanency Hearings

a) The Department or its provider agency will participate in permanency hearings conducted by the court at 12 months following the temporary custody hearing and every six months thereafter in order to:

- 1) select the permanency goal;
- 2) review the appropriateness of the services contained in the plan and whether those services have been provided and, if not, why not;
- 3) determine whether reasonable efforts have been made by all parties to the service plan to achieve the goal; and
- 4) evaluate whether the plan and goal have been achieved.

b) The Department or its provider agency shall provide, no later than 14 days in advance of the hearing, a copy of the most recent service plan, prepared within the prior six months, to the court and all parties to the permanency hearings.

c) If not contained in the plan, the Department or its provider agency shall also include a report setting forth:

- 1) any special physical, psychological, educational, medical, emotional, or other needs of the minor or his or her family that are relevant to a permanency or placement determination; and
- 2) for any minor age 16 or over, a written description of the programs or services that will enable the minor to prepare for independent living.

d) The Department's or its provider agency's written report must explain why, if the goal is other than return home, continued involvement is appropriate and why termination of parental rights or private guardianship is not being sought.

e) The Department's or its provider agency's caseworker is required to appear and testify at the hearing and prepare a written report for the court.

Section 316.130 Caseworker Responsibilities at the Permanency Hearing

a) The caseworker's responsibilities at the permanency hearing will be to:

- 1) present a recommendation regarding the permanency goal, time frame for achievement, clinical intervention, social services, and visitation plan;

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- 2) report on the placement, best interests, health, safety, and well-being of the child;
 - 3) report on the progress of the parent to date toward correcting the conditions that require the child to be in care; and
 - 4) provide the basis for all decisions and recommendations.
- b) Within ten working days after the permanency hearing, the worker will:
- 1) amend the service plan to conform to the court order, if necessary;
 - 2) attach a copy of the permanency order to the amended service plan (as well as ensuring that a copy of the order is in the case record);
 - 3) engage the family to ensure that the family understands the recommendations and decisions made at the permanency hearing and obtain the family's signature on the service plan;
 - 4) file six copies of the plan with the court; and
 - 5) send a copy of the plan to the Administrative Case Review Office Administrator/Scheduler in the region where the next administrative case review will be held.

Section 316.140 Compliance with the Client Service Planning Requirements

The Department shall develop a monitoring and reporting mechanism to evaluate the extent of compliance with its client service planning requirements. At the minimum, the Department shall monitor:

- a) the permanency goal for each child;
- b) the planned date of achievement of the permanency goal;
- c) the extent of progress toward the permanency goal; and
- d) the actual date the permanency goal was achieved.

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Municipal Jail and Lockup Standards
- 2) Code Citation: 20 Ill. Adm. Code 720
- 3)

| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
|-------------------------|-------------------------|
| 720.5 | Amend |
| 720.10 | Amend |
| 720.20 | Amend |
| 720.25 | New Section |
| 720.30 | Amend |
| 720.40 | Amend |
| 720.50 | Amend |
| 720.60 | Amend |
| 720.70 | Amend |
| 720.75 | New Section |
| 720.80 | Amend |
| 720.90 | Amend |
| 720.100 | Amend |
| 720.110 | Amend |
| 720.120 | Amend |
| 720.130 | Amend |
| 720.140 | Amend |
| 720.150 | Amend |
| 720.160 | Amend |

- 4) Statutory Authority: Implementing and authorized by Section 3-15-2 of the Unified Code of Corrections [730 ILCS 5/3-15-2].

- 5) A Complete Description of the Subjects and Issues Involved: A committee consisting of staff of the Department of Corrections, city police departments, and the juvenile justice system drafted this rulemaking to update the standards in accordance with current statutes, and to reorganize, and further clarify the standards. Redundant or philosophical language has been removed. Section 720.25, Administration, has been added to incorporate rules regarding staff training procedures, post descriptions, records, staffing, health services, and personal property. Section 720.75 has been added to request city jails to establish local rules regarding telephone and visits; to provide for monitoring of telephone calls for security reasons; and to clarify that cities may require the detainee or the person called by the detainee to bear the expense of any phone call. Lighting standards have been changed to be consistent throughout the rule. Changes provide for personal hygiene items to be provided on an as needed basis. The time for submission of reports and the nature of incidents to be reported has been clarified. Standards for juvenile detention and for new construction have been updated. Requirements for juvenile population reports have been updated. Supervision standards have been updated to require 30 minute supervisory checks and to require the need for restraints to be reviewed once each

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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER 9: MUNICIPAL STANDARDS

PART 720
MUNICIPAL JAIL AND LOCKUP STANDARDS

| Section | |
|---------|--|
| 720.5 | Definitions |
| 720.10 | Legal Authority to Establish <u>Set-up</u> Standards and Exercise Supervision over Jails <u>Jail-and-Bookups</u> |
| 720.20 | Legal Rights of Accused While in Custody |
| 720.25 | Administration |
| 720.30 | Use of Jails/ <u>bookups</u> |
| 720.40 | Minimum Physical Standards-Existing Buildings |
| 720.50 | Minimum Cell and Detention Room Standards-Existing Facilities |
| 720.60 | Supervision |
| 720.70 | Security |
| 720.75 | Telephone and Visits |
| 720.80 | Food |
| 720.90 | Sanitation |
| 720.100 | Fire Protection |
| 720.110 | Emergency Plan |
| 720.120 | Detainee Records |
| 720.130 | Reports to the <u>Jail and Detention Standards and-Services Unit</u> |
| 720.140 | Use of Force |
| 720.150 | Juvenile Detention |
| 720.160 | New Construction |

AUTHORITY: Implementing and authorized by Section 3-15-2 of the Unified Code of Corrections [730 ILCS 5/3-15-2].

SOURCE: Amended November 4, 1977; emergency rule at 3 Ill. Reg. 8, p. 1, effective February 14, 1979, for a maximum of 150 days; emergency expired July 14, 1979; amended at 4 Ill. Reg. 28, p. 311, effective July 1, 1980; codified at 8 Ill. Reg. 14415; amended at 12 Ill. Reg. 12452, effective October 1, 1988; amended at 13 Ill. Reg. 16750, effective November 1, 1989; amended at 14 Ill. Reg. 20402, effective January 1, 1991; amended at 22 Ill. Reg. _____, effective _____.

Section 720.5 Definitions

"Cell" means an area that has three walls and a grilled front and door that is used to detain or confine adults or to detain juveniles 16 years of age or older.

"Chief of Police" means the chief executive law enforcement officer of the municipality or any designee.

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shift. The use of force Section has been expanded to include use of chemical agents and to limit force to that which is necessary to achieve a permitted purpose.

- 6) Will this rulemaking replace any emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State Mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments during the 45-day First Notice Period which commences on the issue date of this publication of the *Illinois Register* to:

Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277
(217) 522-2666, extension 2082

All written comments received after 45 days from the date of this publication will be considered, time permitting.
- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Municipal jails and lockups

B) Reporting, bookkeeping or other procedures required for compliance: Monthly and quarterly populations reports

C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendment begins on the next page:

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of Corrections may petition the appropriate court for an order requiring such facility to comply with the standards established by the Department or for other appropriate relief.

- c) The Department may shall provide consultation of detention-shelter-care construction, programs and administration of detention-shelter-care and correctional facilities and services for children and adults operated by counties and municipalities and may shall make studies and surveys of the programs and the administration of such facilities. Personnel of the Department shall be admitted to these facilities as required for such purposes. The Department may develop and administer programs of grants-in-aid for correctional services in cooperation with local legal agencies. The Department may shall provide courses of training for the personnel of such institutions and conduct pilot projects in the institutions.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.20 Legal Rights of Accused While in Custody

Sections 103-2, 103-3, 103-4, 103-7 and 103-8 of the Code of Criminal Procedure of 1963 [725 ILCS 5/103-2, 103-3, 103-4, 103-7 and 103-8] provide: (Ill.-Rev. Stat--1905-chr-307-pars--103-2-103-3-103-4-103-7-and-103-8)

- a) Treatment While in Custody
 - 1) On being taken into custody every person shall have the right to remain silent.
 - 2) No unlawful means of any kind shall be used to obtain a statement, admission, or confession from any person in custody.
 - 3) Persons in custody shall be treated humanely and provided with proper food, shelter, and, if required, medical treatment.
- b) Right to Communicate with Attorney and Family--Transfers
 - 1) Persons who are arrested shall have the right to communicate with an attorney of their choice and a member of their family by making a reasonable number of telephone calls or in any other reasonable manner. Such communication shall be permitted within a reasonable time (generally within the first hour) after arrival at the first place of custody.
 - 2) In the event the accused is transferred to a new place of custody, his or her right to communicate with an attorney and a member of his or her family is renewed.
- c) Right to Consult with an Attorney
 - 1) Any person committed, imprisoned or restrained of his or her liberty for any cause whatever and whether or not such person is charged with an offense shall, except in cases of imminent danger of escape, be allowed to consult with any licensed attorney at law of this State whom such person may desire to see or consult, alone and in private at the place of custody, as many times and for such period each time as is reasonable.

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"Department" means the Illinois Department of Corrections.

"Detention room" means an area that has four walls and a door that is used to detain juveniles or adults.

"Jail or lockup", hereafter referred to as jail, means a security facility operated by the municipal police department for the temporary detention of persons who are being held for investigation pending disposition of their cases by the judiciary or who are waiting transfer to another institution.

"Jail and Detention Standards and Services Unit" means the unit within the Division of Support Services Bureau-of-inspections-and-Audits of the Department of Corrections which is authorized to monitor compliance with Municipal Jail and Lockup Standards.

"Unit" means the Jail and Detention Standards and Services Unit.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.10 Legal Authority to Establish Set-up Standards and Exercise Supervision over Jails and Lockups

In accordance with Standards-and-Assistance-to-Local-Jails-and-Detention-and-Shelter-Care-Facilities, Section 3-15-2 of the Unified Code of Corrections [730 ILCS 5/3-15-2] (Ill.-Rev. Stat--1907-Supp-ch-307-par-1003-15-2):

- a) The Department shall establish for-the-operation-of--county--and-municipal--jails--and--houses-of--correction--and--county--juvenile-detention-and-shelter-care--facilities--established--pursuant-to--the--county--Shelter--Care--and--Detention--Home--Act, minimum standards for the physical condition of jails such--institutions and for the treatment of detainees inmates with respect to their health and safety and the security of the community and to make recommendations to such institutions to assure compliance with the requirements of such minimum standards.
- b) At least once each year, the Department may shall inspect each adult such facility for compliance with the standards established and the results of such inspection shall be made available by the Department for public inspection.
 - 1) If any detention-shelter-care-or correctional facility does not comply with the standards established, the Director of Corrections shall give notice to the county-board-and-the-sheriff or-the-corporate-authorities-of-the municipality--as-the-case-may-be of such noncompliance, specifying the particular standards that have not been met by such facility.
 - 2) If the facility is not in compliance with such standards when six months have elapsed from the giving of such notice, the Director

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2) When any such person is about to be moved beyond the limits of this State under any pretense whatever, the person to be moved shall be entitled to a reasonable delay for the purpose of obtaining counsel and of availing himself or herself of the laws of this State for the security of personal liberty.

d) Posting Notice of Rights

1) Every sheriff, chief of police or other person who is in charge of any jail, police station or other building where persons under arrest are held in custody pending investigation, bail or other criminal proceedings, shall post in every room, other than cells, of such buildings where persons are held in custody, in conspicuous places where it may be seen and read by persons in custody and others, a poster, printed in large type, containing a verbatim copy in the English language of the provisions of Sections 103-2, 103-3, 103-4, 109-1, 110-2, 110-4, and subparts (a) and (b) of Section 110-7 and 113-3 of the Criminal Code of Criminal Procedure. [Notice of Rights posters in English and Spanish are available from the Jail and Detention Standards Unit.]

2) Each person who is in charge of any courthouse or other building in which any trial of an offense is conducted shall post in each room primarily used for such trials and in each room in which defendants are confined or water pending trial in conspicuous places where it may be seen and read by persons in custody and others a poster, printed in large type, containing a verbatim copy in the English language of the provisions of Sections 103-6, 113-17, 113-4 and 115-1 and of subparts (a) and (b) of Section 113-3 of the Criminal Code.

AGENCY NOTE: (Notice of Rights posters in English and Spanish are available from the Detention Standards and Services Unit.)

e) Mandatory Duty of Officers

Any peace officer who intentionally prevents the exercise by an accused of any right conferred by this Article or who intentionally fails to perform any act required of him or her by this Article shall be guilty of official misconduct and may be punished in accordance with Section 33-3 of the Criminal Code of 1961. [20 ILCS 5/33-3].

approved July 28, 1961, as heretofore and hereafter amended. (See Ill. Rev. Stat. 1987, ch. 307, par. 33-3.)

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.25 Administration

a) Staff Training

1) All jail officers and other persons assigned jail duties shall be trained in jail procedures. Such training may include identification of signs and management of mentally impaired detainees and first aid and CPR training. Jail officers and

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other personnel assigned to jail duty who are not peace officers trained in accordance with the Illinois Police Training Act [50 ILCS 705] shall be trained in security measures such as use of restraints, force, and chemical agents, and handling special incidents such as assaults, disturbances, fires, natural disasters, evacuation procedures, escapes, communications, crime scene protection, and suicide prevention.

2) Written documentation of staff training shall be maintained.

3) Jail officers and other personnel assigned to jail duty shall be familiar with the standards in this Part and shall be thoroughly acquainted with all security features of the jail and the location and use of all emergency equipment and first aid supplies. Such familiarization shall be documented.

b) Written Procedures

A current written manual of policies and regulations for the operation of the jail shall be established by the Chief of Police and be accessible to each employee. The manual shall include written procedures for fires, riots, escapes, hostage situations, major disturbances, use of chemical agents, medical emergencies including suicide prevention and crisis intervention, bomb threats, severe weather, and natural disasters.

c) Post Description

A comprehensive duty description for each operational jail position shall be in writing. Employees shall be familiar with the written post description prior to assuming the post.

d) Records

The Chief of Police shall assure that all records required by this Part are maintained and available for examination by staff of the Jail and Detention Standards Unit.

e) Discrimination and Harassment

The Chief of Police shall prohibit unlawful discrimination and harassment of employees, detainees, and any other persons within the jail on the basis of race, gender, age, religion, national origin, and disability, among other matters.

f) Jail Officer Staffing

1) Each jail must have sufficient personnel to provide adequate supervision of detainees.

2) No person shall be confined without an officer or other qualified staff, awake and alert at all times, on continuous duty in the jail.

3) Supervision shall be provided by a person of the same sex, where feasible, during periods of personal hygiene activities such as use of showers and toileting.

g) Health Services

Any seriously injured, seriously ill, or unconscious person shall not be admitted to the jail until a medical examination has been conducted by a jail physician. A jail physician is a physician designated by the Chief of Police.

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- 1) The Chief of Police shall order a detainee's removal to a hospital upon the recommendation of the jail physician.
- 2) A written record of all physicians' visits, examinations, and treatment shall be maintained.
- 3) Medication provided to detainees shall be recorded in a log, including the detainee's and the employee's names, the date and time, and the type and amount of medication.

b) Personal Property

The Chief of Police shall determine what personal property, if any, a detainee may retain. Receipts must be issued for all personal property taken from a detainee. Personal property, except for items confiscated as evidence, shall be returned to the detainee or his or her designee upon release and such return shall be documented.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 720.30 Use of Jails/lockups

a) The jail/lockup hereinafter referred to as a jail is a security facility operated by the police department for the temporary detention of persons held for investigation pending disposition of their cases by the judiciary or awaiting transfer to another institution.

a) The maximum period of detention in a jail should not normally exceed 48 hours, except when detention occurs at the beginning of a weekend or holiday.

b) No minor under 16 years of age may be confined in a jail or place ordinarily used for the confinement of prisoners in a police station. Minors under 17 years of age shall not be kept separate from confined adults and may not at any time be kept in the same cell, room, or yard with adults confined pursuant to the criminal law. (Section 5-7 3-6(5) of the Juvenile Court Act [705 ILCS 405/5-7] (1997 Rev. Stat. 1985 Ch. 377, par. 703-6(5)). However, no minor shall be detained in a municipal jail for more than six hours.

c) A detainee with a known history of mental disorder or mental defect, or a detainee who shows evidence of such condition, shall be detained only temporarily in a municipal jail and transferred as soon as possible. In the event such a detainee is received, the detainee shall be afforded appropriate protective custody and constant supervision as determined by the Chief of Police or his or her designee until transferred. The Chief of Police or the Chief of Jail shall immediately notify the appropriate authorities regarding the mental condition of the detainee so that a transfer can be effected.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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Section 720.40 Minimum Physical Standards--Existing Buildings

a) The building in which a jail is located must:

- a) Conform to the building, fire, safety, and health requirements of local, and State, and federal authorities. State of Illinois standards for a jail which exceed those of a federal or local authority shall take precedence.
- b) Be well lighted to provide 39-footcandles-in-the-detention-area--and at least 20 footcandles at 30" above the floor in the detention area and in other parts of the jail.
- c) Be comfortably heated and cooled according to the season with a system designed to eliminate disagreeable odors and to routinely provide temperatures within the normal comfort zone (67° to 85° F).
- d) Have electrical conduits, fixtures, switches, and outlets that are inaccessible to the reach of detained persons or that are of tamperproof construction.
- e) Have all exterior windows in the detention area security screened or barred. Those exterior windows that can be opened must also be insect screened.
- f) The heating system shall not constitute a fire hazard--or--jeopardize the health or safety of staff or detainees.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.50 Minimum Cell and Detention Room Standards--Existing Facilities

a) Male and female detainees shall be confined in completely segregated areas.

1) The confinement area quarters for males and females shall be located so that physical, visual, and auditory contact by detainees of the opposite gender is between the sexes--are prevented.

2) Juveniles shall be confined in areas that are completely separated from adults. Minors under 17 may be housed in detention rooms or cells while minors under 16 shall not be housed in cells.

b) The minimum size of each cell shall provide at least 50 square feet of floor space. Detention rooms shall provide at least 64 square feet of floor space.

c) All existing cells and detention rooms shall be designated single occupancy. Multiple occupancy shall not be used until all cells and detention rooms are in use. However, no more than two detainees may be housed in a single cell or detention room.

d) Each cell or detention room shall be equipped with:

- 1) A rigidly constructed metal or concrete bed, with a solid or perforated steel bottom, anchored to the floor or walls. A metal bench may be used if detention is eight hours or less.

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- 2) A washbasin washbowl with piped hot and cold water if detention exceeds eight hours. If detention is eight hours or less, access to a washbasin washbowl with cold water must be provided in or contiguous to adjoining--the cells or detention rooms must be provided.
- 3) A toilet if---if detention is for more than eight hours. Access or---access to toilet facilities must be provided in or contiguous to adjoining the cells or detention rooms if detention is for eight hours or less must be provided.
- 4) Security light fixtures providing an illumination level sufficient for distinct visual supervision from the cell door and a comfortable reading level of 30-foot-candle. Illumination may be provided by a light fixture in the inspection corridor, provided it is not accessible to detainees.
- e) Physical restraints shall not be placed upon a detainee to confine his movements within a cell or detention room other than for the specific purpose of preventing the detainee from injuring himself or others or from damaging or destroying property.
- i) A written report will be placed on--file whenever restraint devices are applied.
- 2) Additionally, each individual case will be reviewed at least once every 24 hours to determine the necessity for such restraints.
- e)f) Cells shall not be constructed of wood or flammable material.
- f)g) Cells or detention rooms located in a basement must be adjacent to the office of the jailer responsible for supervision and care of detainees.
- 1) A basement is defined as a story whose floorline is below grade at any entrance or exit and whose ceiling is not more than five feet above grade at any such entrance or exit.
- 2) The basement detention area must be provided with adequate light, heat, and forced-air ventilation.
- h) Each cell shall be supplied with:
- i) Toilet tissue.
- 2) Soap.
- 3) Paper towels.
- 4) Supply of disposable drinking cups, if washbasin is not--drinking fountain equipped.
- i) Clean bedding shall be provided for detainees confined overnight and shall consist of a flame-retardant mattress, a mattress cover---if the mattress cannot be--sanitized after use, and blankets appropriate to the season of the year or temperature of the facility.
- j) Shaving equipment, comb, and disposable toothbrush shall be made available for detainee use prior to going to court.
- g)k) All requirements of a physical nature shall be complied with by the municipalities following dates:
- 1) However, if the Department of Corrections has previously given written approval for final architectural plans for new construction or remodeling and construction commences within one

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- year after such approval, new standards of a physical nature will not be enforced.
- 2) Noncompliance pertaining to physical conditions that adversely affect the treatment of detainees with respect to their health and safety may be considered for further action under the provisions of Section 3-15-2 of the Unified Code of Corrections [730 ILCS 5/3-15-2].
- i) j) k) l) m) n) o) p) q) r) s) t) u) v) w) x) y) z) aa) ab) ac) ad) ae) af) ag) ah) ai) aj) ak) al) am) an) ao) ap) aq) ar) as) at) au) av) aw) ax) ay) az) ba) bb) bc) bd) be) bf) bg) bh) bi) bj) bk) bl) bm) bn) bo) bp) bq) br) bs) bt) bu) bv) bw) bx) by) bz) ca) cb) cc) cd) ce) cf) cg) ch) ci) cj) ck) cl) cm) cn) co) cp) cq) cr) cs) ct) cu) cv) cw) cx) cy) cz) da) db) dc) dd) de) df) dg) dh) di) dj) dk) dl) dm) dn) do) dp) dq) dr) ds) dt) du) dv) dw) dx) dy) dz) ea) eb) ec) ed) ee) ef) eg) eh) ei) ej) ek) el) em) en) eo) ep) eq) er) es) et) eu) ev) ew) ex) ey) ez) fa) fb) fc) fd) fe) ff) fg) fh) fi) fj) fk) fl) fm) fn) fo) fp) fq) fr) fs) ft) fu) fv) fw) fx) fy) fz) ga) gb) gc) gd) ge) gf) gg) gh) gi) gj) gk) gl) gm) gn) go) gp) gq) gr) gs) gt) gu) gv) gw) gx) gy) gz) ha) hb) hc) hd) he) hf) hg) hh) hi) hj) hk) hl) hm) hn) ho) hp) hq) hr) hs) ht) hu) hv) hw) hx) hy) hz) ia) ib) ic) id) ie) if) ig) ih) ii) ij) ik) il) im) in) io) ip) iq) ir) is) it) iu) iv) iw) ix) iy) iz) ja) jb) jc) jd) je) jf) jg) jh) ji) jj) jk) jl) jm) jn) jo) jp) jq) jr) js) jt) ju) jv) jw) jx) jy) jz) ka) kb) kc) kd) ke) kf) kg) kh) ki) kj) kl) km) kn) ko) kp) kq) kr) ks) kt) ku) kv) kw) kx) ky) kz) la) lb) lc) ld) le) lf) lg) lh) li) lj) lk) ll) lm) ln) lo) lp) lq) lr) ls) lt) lu) lv) lw) lx) ly) lz) ma) mb) mc) md) me) mf) mg) mh) mi) mj) mk) ml) mn) mo) mp) mq) mr) ms) mt) mu) mv) mw) mx) my) mz) na) nb) nc) nd) ne) nf) ng) nh) ni) nj) nk) nl) nm) nn) no) np) nq) nr) ns) nt) nu) nv) nw) nx) ny) nz) oa) ob) oc) od) oe) of) og) oh) oi) oj) ok) ol) om) on) oo) op) oq) or) os) ot) ou) ov) ow) ox) oy) oz) pa) pb) pc) pd) pe) pf) pg) ph) pi) pj) pk) pl) pm) pn) po) pp) pq) pr) ps) pt) pu) pv) pw) px) py) pz) qa) qb) qc) qd) qe) qf) qg) qh) qi) qj) qk) ql) qm) qn) qo) qp) qq) qr) qs) qt) qu) qv) qw) qx) qy) qz) ra) rb) rc) rd) re) rf) rg) rh) ri) rj) rk) rl) rm) rn) ro) rp) rq) rr) rs) rt) ru) rv) rw) rx) ry) rz) sa) sb) sc) sd) se) sf) sg) sh) si) sj) sk) sl) sm) sn) so) sp) sq) sr) ss) st) su) sv) sw) sx) sy) sz) ta) tb) tc) td) te) tf) tg) th) ti) tj) tk) tl) tm) tn) to) tp) tq) tr) ts) tt) tu) tv) tw) tx) ty) tz) ua) ub) uc) ud) ue) uf) ug) uh) ui) uj) uk) ul) um) un) uo) up) uq) ur) us) ut) uu) uv) uw) ux) uy) uz) va) vb) vc) vd) ve) vf) vg) vh) vi) vj) vk) vl) vm) vn) vo) vp) vq) vr) vs) vt) vu) vv) vw) vx) vy) vz) wa) wb) wc) wd) we) wf) wg) wh) wi) wj) wk) wl) wm) wn) wo) wp) wq) wr) ws) wt) wu) wv) ww) wx) wy) wz) xa) xb) xc) xd) xe) xf) xg) xh) xi) xj) xk) xl) xm) xn) xo) xp) xq) xr) xs) xt) xu) xv) xw) xx) xy) xz) ya) yb) yc) yd) ye) yf) yg) yh) yi) yj) yk) yl) ym) yn) yo) yp) yq) yr) ys) yt) yu) yv) yw) yx) yy) yz) za) zb) zc) zd) ze) zf) zg) zh) zi) zj) zk) zl) zm) zn) zo) zp) zq) zr) zs) zt) zu) zv) zw) zx) zy) zz)
- 1) The variance request must be in writing and pertain to a specific standard. The request must describe the reasons for the variance; the period of time for the variance; any hardship the facility might experience by complying with the standard; plans to be implemented to eventually comply with the particular standard; and a statement that the variance would not adversely affect the health and safety of detainees or security of the jail. All these criteria will be considered in arriving at a decision.
- 2) The approval or denial of a variance request will be returned by letter to the requesting governmental agency.
- 3) The Director of the Department of Corrections, at his or her discretion, may grant a renewal of the variance provided documentation is received from the governing body which indicates

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a good faith effort on its part to effect necessary actions to comply with the standard in question.

- 4) ~~A permanent variance, depending on the circumstances, may be granted.~~

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.60 Supervision

a) Persons confined shall be supervised by a jail officer or other qualified staff. ~~There must be sufficient officers present in the jail awake and alert at all times to provide supervision while persons are confined.~~ For most municipalities, a radio operator on duty will suffice, provided duties do not interfere with the conduct of the following supervisory checks: ~~required in the following paragraph (refer to Section 720.70(d)).~~

- 1) A visual check by personal inspection of each person confined shall be conducted, not including observation by a monitoring device, at least once every 30 minutes, unless continuous audio and visual checks conducted with a monitoring device has been approved as a variance in accordance with Section 720.50(h) or the individual has been restrained. Persons restrained shall be checked at least every 15 minutes.

- 2) Visual checks shall be recorded by a mechanical device or logged in ink indicating:

- A) Time of check;
- B) Signature, initials, badge number, or any other personal identifier of the responsible person; and
- C) Any relevant remarks.

b) Physical restraints, including therapeutic restraints, shall not be placed upon a detainee to confine his or her movements within a cell or detention room other than for the specific purpose of preventing the detainee from injuring himself or herself or others or from damaging or destroying property.

- 1) A written report shall be placed on file whenever restraint devices are applied. The report shall include the date and time and the purpose for which the physical restraints have been applied.

- 2) Persons placed in therapeutic restraints shall be monitored as recommended by the jail physician.

- 3) Additionally, each individual case shall be reviewed at least once during each shift to determine the necessity for such restraints. The identity of the person conducting the review, the date and time, and either the reason for continued use of restraints or the discontinuance of restraints shall be documented.

c) Any use of force shall not be prohibited simply because the jail

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officer or staff member using such force is not of the same gender as the detainee.

- d) Detainees shall be supplied with the following materials on an as needed basis:

- 1) Personal hygiene items, such as toilet tissue, soap, paper towels, and feminine hygiene items; and
- 2) Disposable drinking cups, if the washbasin is not drinking fountain equipped.

- e) Clean bedding shall be provided for detainees confined overnight (that is, continuous confinement between the hours of 10:00 p.m. and 6:00 a.m.). Clean bedding shall consist of a flame retardant mattress, a mattress cover if the mattress cannot be sanitized after use, and blankets appropriate to the season of the year or temperature of the facility. Bedding, including the mattress or mattress cover, sheets, or pillow cases, shall be laundered or otherwise sanitized prior to reissue.

- b) Under the following conditions, supervision shall be provided by a person of the same sex:

- 1) When procedures require physical contact or examination, such as body searches.

- 2) During periods of personal hygiene activities such as showering, toileting, and related activities. (This standard does not prohibit the use of necessary force by a staff member of a sex other than that of a detainee.)

- f) Persons confined beyond 48 hours shall be permitted to shower or bathe once every 48 hours. Clean towels shall be provided when showering or bathing.

- d) Any seriously injured, seriously ill or unconsentous person must not be admitted to the jail until a medical examination has been conducted by a physician:

- 1) A physician shall have authority to order a detainee's removal to a hospital;

- 2) A written record of all physicians' visits, examinations, and treatment shall be maintained;

- 3) Medication administered to detainees shall be recorded in a log; Receipts must be issued for all personal property taken from a detainee.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.70 Security

a) Detainees shall be given an immediate frisk search.

b) Strip searches shall be performed in accordance with ~~Search~~ the following has been extracted from Section 103-1 of the Code of Criminal Procedure of 1963 [725 ILCS 5/103-1]. (Ill. Rev. Stat. 1965, ch. 90, par. 103-1).

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- 1) No person arrested for a traffic, regulatory, or misdemeanor offense, except in cases involving weapons or a controlled substance, shall be strip searched unless there is reasonable belief that the individual is concealing a weapon or controlled substance.
- 2) "Strip search" means having an arrested person remove or arrange some or all of his or her clothing so as to permit a visual inspection of the genitals, buttocks, anus, female breasts, or undergarments of such person.
- 3) All strip searches shall be performed by persons of the same sex as the arrested person and on premises where the search cannot be observed by persons not physically conducting the search.
- 4) Every peace officer or employee of a police department conducting a strip search shall:
 - A) Obtain the written permission of the police commander or an agent thereof designated for the purposes of authorizing a strip search in accordance with this Section.
 - B) Prepare a report of the strip search. The report shall include the written authorization required by paragraph (4) of this subsection (b)(4)(A) of this Section, the name of the person subjected to the search, the names of the persons conducting the search, and the time, date, and place of the search. A copy of the report shall be provided to the person subject to the search.
 - 5) No search of any body cavity other than the mouth shall be conducted without a duly executed search warrant; any warrant authorizing a body cavity search shall specify that the search must be performed under sanitary conditions and conducted either by or under the supervision of a physician licensed to practice medicine in all of its branches in this State.
 - 6) Any peace officer or employee who knowingly or intentionally fails to comply with any provisions of this Section 720.70(b) is guilty of official misconduct as provided in Section 103-8 [725 ILCS 5/103-8]; provided, however, that nothing contained in this Section shall preclude prosecution of a peace officer or employee under another section of the this Code of Criminal Procedure.
 - c) Any No--armed officer who enters shall enter a cell or detention area where a person is confined shall not be armed with a firearm, except in emergency circumstances where the use of deadly force may be authorized by Section 7-9 of the Criminal Code of 1961 [720 ILCS 5/7-9] or Section 3-6-4 of the Unified Code of Corrections [730 ILCS 5/3-6-4].
 - d) Prior to any No officer or other person responsible for detainee supervision entering shall enter an occupied cell or detention room, without the presence of another qualified police employee shall be present.
 - e) Cells and detention rooms shall be examined for the presence of

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- f) Unauthorized objects before being reassigned to another detainee. All fixtures, equipment, wiring, and conduits shall be properly maintained.
 - g) Eating utensils shall be removed from cells and detention rooms after each meal.
 - h) Any open ~~open~~ or contact visits must be closely supervised and the detainee shall be searched before and after the visit.
 - i) Visitors are subject to search and a search notice sign must be conspicuously posted.
 - j) A record of all keys inventoried and issued shall be maintained.
- (Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.75 Telephone and Visits

- a) Detainees may be required to bear the expense of any telephone calls they make or to place only collect calls.
- b) Telephone calls may be monitored unless prior special arrangements have been made to make or receive confidential telephone calls to or from the detainee's attorney. A notice stating telephone calls may be monitored or recorded shall be posted by each telephone from which detainees may place calls.
- c) Rules governing the use of the telephone and visits shall be established by the Chief of Police. Violation of telephone or visiting rules may result in suspension of the detainee's use of the telephone or visits, except as required by law.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 720.80 Food

Three meals per day ~~Att-detainees~~ shall be furnished ~~ree-meats-per-day~~.

- a) Food must be of sufficient nutritional value and provide a daily minimum of 1,800 to -- 2,000 calories for adults and 2,500 to -- 3,000 calories for juveniles.
- b) Food quantity must be sufficient to satisfy, within reason, the detainee's needs.
- c) Meals shall be provided at reasonable and proper intervals, that is ~~4-er~~, adhering to recognized breakfast, lunch, and dinner schedules.
- d) A drink other than water shall be served with each meal.
- e) Of the three daily meals provided, at least one shall be a balanced and complete hot meal if the detainee is confined for longer than 24 hours.
- f) Special diets shall be adhered to when prescribed by a the-contract jail physician, clinic, or hospital designated by the Chief of Police.
- g) A copy of the menu served shall be maintained for a period of three

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- h) Detainees shall be served in their cells or detention rooms.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.90 Sanitation

- a) When occupied, cells and detention rooms shall be cleaned daily.
b) Areas adjacent to cells and detention rooms shall be maintained in a clean and orderly condition. Walkways and corridors shall not be used as storage areas.
c) A vermin and pest control program shall be implemented.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.100 Fire Protection

- a) Based on the size of the facility, there shall be at least one fire extinguisher installed in the basement and on each floor for each 5,000 square feet of floor area.
1) Extinguishers shall be readily accessible to staff but not to detainees. The local fire department shall be contacted regarding the location, type, and number of fire extinguishers required.
2) Extinguishers shall be examined not less than once each year and tagged with the date of inspection and initials of the inspector.
3) All jail personnel shall be familiar with the characteristics and operation of all types of extinguishers in the facility.
b) Emergency exit doors shall be clearly indicated with at least 4 1/2 inch block lettering stating "Exit" in all capital letters; their location shall be made known to all jail personnel; and the keys for the doors shall be immediately available to jail staff. There shall be at least two exits from each floor of detention.
c) There shall be at least one full set of keys, separate from those in use, stored in a safe place accessible only to police department personnel for use in the event of an emergency.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.110 Emergency Plan

- a) Each jail shall have, in writing, detailed plans that include procedures for emergencies, such as:
1) Fires, severe weather periods, and civil disasters; disaster;
2) Riots or major disturbances;

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- 3) Battery on jail officers;
4) Battery on detainees;
5) Escapes or escape attempts;
6) Contagious diseases; and
7) Medical (epilepsy, heart attacks, etc.).
b) Emergency plans must be known and understood by all personnel.
c) There shall be at least one full set of keys, separate from those in use, stored in a safe place accessible only to police department personnel for use in the event of an emergency.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.120 Detainee Records

- a) Minimum identification data and information shall be recorded for each person detained as follows:

- 1) Name.
- 2) Aliases AKA and nicknames.
- 3) Address.
- 4) Marital status.
- 4)5) Age and date of birth.
- 5)6) Person to notify in case of emergency, including address and telephone number.
- 6)7) Physical description, gender sex, and characteristic marks.
- 7)8) Occupation.
- 9) Religion or religious affiliation.
- 8)9) Offense.
- 9)10) Date and time of admission and authority.
- 10)12) Name and title of officers presenting and receiving detainee.
- 13) Name and telephone number of detainee's attorney.
- 11)14) Previous arrest record and convictions.
- 12)15) Itemized record of detainee's cash and other valuables, expenditures, and receipts while in custody.
- 13)16) Disposition of case and authority.
- 14)17) Date of release or transfer.
- b) Juvenile and adult records shall be kept separate from each other.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.130 Reports to the Jail and Detention Standards and Services Unit

- a) Adult Population Reports - The Chief of Police or any other responsible supervisor designated by him shall furnish quarterly population reports to the Jail and Detention Standards Unit, utilizing appropriate forms supplied by the Unit. The report will include:
1) The report shall include the total total number of adult males

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- and adult females detained during the month.
- 2) ~~Total number of juvenile males and juvenile females--detained during the month.~~
- 2) Reports shall be submitted by the tenth day of each month following the end of each quarter, including those months in which no persons were detained. Reports shall include indicate only those persons securely actually confined and not those merely arrested.

b) Juvenile Population Reports - The Chief of Police shall furnish monthly population reports to the Jail and Detention Standards Unit, utilizing appropriate forms supplied by the Unit.

- 1) The report shall include the total number of juvenile males and juvenile females securely detained during the month; the initials, date of birth, age, sex, and race of each juvenile; the offense and offense code for which the juvenile is being held; whether the juvenile has been adjudicated; the date and time the juvenile was securely detained; the date and time the juvenile was released; and to whom the juvenile was released or transferred.

- 2) Reports shall be submitted by the tenth day following each month, including those months in which no persons were detained. Reports shall include only those persons securely detained and not those merely arrested.

c) Extraordinary or Unusual Occurrences - All extraordinary or unusual occurrences which involve or endanger the lives or physical welfare of jail officers or detainees shall be reported to the Jail and Detention Standards Unit utilizing appropriate forms supplied by the Unit.

- 1) Reports shall be forwarded within 72 hours after of the occurrence or its discovery.

2) Extraordinary or unusual occurrences shall mean:

- A) Death, regardless of cause.
- B) Attempted suicide (if hospitalization or medical treatment is required).
- C) Serious injury to include accidental or self-inflicted.
- D) Escape or attempted escape.
- E) Serious fire resulting in property damage, personal injury, or evacuation of fire.
- F) Detainee disturbance involving four or more individuals, riot, or hostage situation.
- G) Battery on a staff member, visitor, or volunteer by a detainee.
- H) Battery on detainee by a staff member.
- I) Battery on detainee by another detainee (only if hospitalization or extensive medical treatment is required).
- J) Sexual assault assaults.
- K) Occurrences of contagious or infectious serious infection, disease or illness within the facility, excluding names of

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detainees or others involved.

- L) Discovery of firearms or weapons, as defined in 720 ILCS 5/31A-1.1, in cells, detention rooms, or other detainee areas.
- M) A written or oral act of intimidation by a detainee on detainees or staff for which criminal charges result.
- N) Use of chemical agents.
- O) Major property damage.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.140 Use of Force

a) Officers shall not strike or lay hands on a detainee or employ the use of chemical agents except:

- 1) In self-defense.
- 2) To prevent escape.
- 3) To prevent serious injury or damage to person or property.
- 4) To quell a disturbance.
- 5) To effect detention.
- 6) To establish control.

b) Force shall be employed only as a last resort or when other means are unavailable or inadequate and only to the degree reasonably necessary to achieve a permitted purpose. ~~Only the amount of physical force necessary to gain control of the detainee is authorized.~~

c) Following the use of chemical agents, appropriate measures as recommended by the manufacturer shall be taken to minimize the effect of the chemicals.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.150 Juvenile Detention

a) Statutory Provisions Introduction

Sections 5-3 and 5-7 of the Juvenile Court Act of 1987 [705 ILCS 405/5-3 and 5-7] (~~Ill. Rev. Stat. 1989, ch. 37, par. 805-3 and 805-7~~) state:

- 1) "Delinquent Minor" means any minor who prior to his or her 17th birthday has violated or attempted to violate, regardless of where the act occurred, any federal or state law or municipal ordinance.
- 2) "Detention" means the temporary care of a minor alleged or adjudicated as a person described in subsection (a)(1) of this Section who requires secure custody for his or her own or the community's protection in a facility designed to physically restrict his or her movements, pending disposition by the court

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for placement or commitment. Design features which physically restrict movement include, but are not limited to, locked rooms and the secure handcuffing of a minor to a rail or other stationary object.

3) "Juvenile Detention Home" means a public facility with specially trained staff that conforms to the county juvenile detention standards (20 Ill. Adm. Code 702).

4) No minor shall be detained in a county-jail-or municipal lockup for more than six hours.

A) The period of detention is deemed to have begun once the minor has been placed in a locked room or cell or handcuffed to a stationary object in a building housing a county-jail-or municipal lockup. Time spent transporting a minor is not considered to be time in detention or secure custody.

B) Any minor so confined shall be under periodic supervision and shall not be permitted to come into or remain in contact with adults in custody in the building.

C) Upon placement in secure custody in a jail or lockup, the minor shall be informed of the purpose of the detention, the time it is expected to last and the fact that it cannot exceed six hours.

D) A log shall be kept that shows the offense which is the basis for the detention, the reasons and circumstances for the decision to detain and the length of time the minor was in detention.

E) Violation of the 6-hour time limit on detention in a county jail-or municipal lockup shall not, in and of itself, render inadmissible evidence obtained as a result of the violation of this 6-hour time limit.

F) No minor under 16 years of age may be confined in a jail or place ordinarily used for the confinement of prisoners in a police station. Minors under 17 years of age shall be kept separate from confined adults and may not at any time be kept in the same cell, room, or yard with adults confined pursuant to criminal law.

b) Minimum Standards

The-following-standards-for--juvenile---detention---provide---added requirements--restrictions, or-emphasize-

1) All standards in the preceding Sections of this Part apply equally to minors except when prohibited by law or by the standards in this Part. Notification-of-Detention

2) Confined minors shall be kept separate by sight and sound from confined adults. There shall be no contact between confined adults and confined juveniles in cells and detention rooms. This does not prohibit inadvertent or occasional contact in non-residential areas, such as entrances, corridors, elevators, and booking areas.

3) A parent, legal guardian, or person with whom the minor resides

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shall be notified of the minor's detention if the law enforcement officer has been unable to do so.

2) Records

4) A) Records of all minors under 17 years of age must be maintained separate from the records of adult arrests. Names of juveniles shall not be recorded in the same ledgers, jail registrars, monthly population reports or other records that are subject to public review.

5) B) Records shall not be open to public inspection nor shall the or these contents be disclosed to the public, except by order of the court or when the institution of criminal proceedings has been permitted or the person has been convicted of a crime and is the subject of pre-sentence investigation or proceedings on an application for probation or as otherwise permitted by law.

9) Supervision

6) A) Juveniles Detainees shall, under the following conditions, be provided with supervision by a person of the same sex:

A) When following established procedures which require physical contact or examination such as body searches.

B) During periods of personal hygiene activities and care such as showers, toileting, and related activities.

7) B) Subsection (b)(6) of this Section this--standard does not prohibit the use of necessary force by a staff member of a sex other than that of a detainee.

8) E) A periodic visual check of juveniles confined shall be made by personal observation, not including observation by a monitoring device. Periodic is defined to be a minimum of at least once every 15 minutes.

9) Visual-checks-shall-be-recorded-by-a-mechanical-device-or--logged in--ink-indicating:

i) Time-of-check

ii) Signature-of-responsible-person--and

iii) Any-relevant-remarks.

4) Cell-or-Detention-Room-Occupancy

9) Juveniles shall be detained in a detention area or detention room. Cells-or-detention-rooms-must-include-access-to-

A) Toilet-facilities;

B) A-washbowl--and

C) Drinking-water--in-the-form-of-drinking-cups-or--a--drinking fountain.

5) Meals

10) Juveniles Detainees shall be provided with meals when they are detained during the facility's normal meal periods.

6) Child-Abuse

11) Any evidence of child abuse shall be reported to the Illinois Department of Children and Family Services in accordance with 89 Ill. Adm. Code 300.

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(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 720.160 New Construction

This Section applies to all new construction, including remodeling, renovation, additions to existing structures, and new structures.

- a) All plans and specifications for the construction of municipal jails or the remodeling or renovation of existing facilities must be approved by the Illinois Department of Corrections. The Department is concerned with all aspects of jail construction, maintenance, and operation which affect the rights, safety, security, care, and welfare of all persons detained and of the staff. The minimum standards set forth in this Section, or an approved equivalent or greater standard, must be met.

- 1) One set of preliminary drawings shall be submitted to the Department for review and approval.
- 2) One complete set of construction or bid final drawings and specifications shall be submitted to the Department for review and approval, to include:
 - A) Architectural design.
 - B) Heating and ventilating system.
 - C) Plumbing specifications.
 - D) Electrical specifications.
 - E) Specifications for materials.
 - F) Equipment.
 - G) Furnishings.

- 3) Documents shall show conformance to applicable local, State, and federal codes and standards and shall include the architect's seal.

- 4) Plans showing the proposed building location must be submitted to the Illinois Department of Natural Transportation, Division of Water Resources, to determine compliance with the Regulation of Construction within Flood Plains (17 92 Ill. Adm. Code 2706.706) and Construction Activities in Special Flood Hazard Areas (Executive Order 79-4, effective June 1, 1979).

- b) All minimum standards for existing facilities (Section 720.50) shall apply in addition to the following minimum standards:
- 1) Design and Layout of Cell Block.

The cell block shall adjoin the police quarters.

- 2) Cell, Detention Room, and Cell Block Corridor Walls and Ceilings
 - A) Either steel, reinforced concrete, or reinforced masonry is required for walls.

- i) Masonry must be at least six inches thick with a 3/8" bar at 16" on center horizontally and 1/2" bar at 16" on center vertically.

- ii) Joints between concrete blocks shall not exceed 3/8 inch.

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- B) Ceilings shall be constructed of cast in place concrete, pre-cast concrete, or steel. Bars across the cell ceiling tops are not permitted.

- C) Paint, if used, must be flame fire retardant and lead-free.

3) Cell and Detention Doors and Fronts

- A) Each door shall contain a food pass no with a maximum height of 5" larger than twelve inches wide by five inches high and a viewport in solid doors with the smaller dimension not to exceed five inches. Solid doors shall have a viewport. The door shall be a minimum of 6'8" high and 2'4" wide.

- B) Cell fronts front shall be steel grille (bars) or reinforced solid masonry.

- i) Grille construction shall be no less than 7/8 inch steel bars, round or hexagonal.

- ii) The clear opening space between bars shall not exceed 5". Bar openings shall be no more than 5 inches from their centers.

- C) Detention room doors shall be 12-gauge hollow metal. Door with the door frames shall be being at least 12-gauge steel metal. Both shall be detention grade construction.

- D) There shall be a manual override or emergency backup for all doors that are electrically operated.

4) Cell Block Entrance Door

- A) A grille door or security hollow metal steel door, equipped with a safety glass observation panel with the smaller dimension not to exceed five inches, shall be used.

- B) The entrance door shall be a minimum height of 6'8" and a minimum width of 3'. The no less than three feet wide and the area on either side shall be unobstructed.

5) Plumbing

- A) Each cell and detention room shall be equipped with a toilet and washbasin washbowl, preferably a stainless steel prison-type with bubbler.

- i) The toilet shall be seatless (integral seat) and tankless with a push button flush valve.

- ii) The washbasin washbowl shall be hot and cold water equipped with push button controls.

- iii) The water shutoff valve for each cell or detention room shall be installed outside the cell or detention room.

- B) A shower shall be provided in the detention area to permit bathing for those persons who are detained for more than 48 hours ex-more.

- C) Hot and cold water accessible to detainees shall be thermostatically controlled.

6) Windows

- A) Windows in the detainee's living quarters must be security type.

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B) The maximum dimension of the lesser side of any security sash in the cell shall not exceed five inches.

B) Any public view into the cell or detention room living area is prohibited.

C) Translucent security glass shall be used.

D) All operable cell block external windows shall be security screened. Security screens shall consist of 1 1/2" x 3/4" 11-gauge steel tubing or channel with a cover plate windows that can be opened must also be insect screened.

E) Windows that can be opened must also be insect screened. Wire cloth shall be .028" diameter, 12 mesh stainless steel wire, 1200# lineal inch tensile strength.

F) Windows are not required when artificial illumination, cooling, and ventilation (air conditioning) is adequate.

7) Cell and Cell Block Floors

A) Floors must be concrete or precast concrete and may have non-skid material.

B) Floor shall be pitched one to two inches above corridor floor for drainage purposes.

8) Cell Block Corridors.

Cell Block corridors shall be no less than four feet wide.

9) Water Drains

A) Floor water drains shall be located only in cell block corridor floors or the plumbing chase. One with one drain shall be provided for every three cells.

B) Drain covers must be securely anchored.

C) Floor flushing drains shall be provided in in-certain sections, notably cells to be used for offenders under the influence of alcohol, floor drains shall be located inside the cells so that these areas may be cleaned without washing debris into the corridor.

10) Heating, Cooling and Ventilation

Any standard heating system is acceptable.

A) System must assure comfort during cold or damp weather.

A) Heating equipment No heating equipment such as radiators shall be located outside in the cells or detention rooms.

B) Radiators, if used, shall be located outside the cells and adequately shielded to prevent accidental injury.

C) Thermostats shall not be located outside in cells or detention rooms.

11) Ventilation

A) The ventilation system shall be capable of moving a sufficient volume of air to each cell or detention room to remove foul air and odors.

i) Circulation shall be at least 15 cubic feet of outside air per minute per occupant.

ii) Mechanical ventilation may provide for recirculation of outside air except where prohibited by local or

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State codes. The outside air requirements may be reduced to a minimum of 33 percent of the specified ventilated air quantity, if adequate temperature control is provided in addition to filtering equipment so that the maximum concentration of particles entering the space is reduced to acceptable limits. In no case should the outdoor air quantity be less than five cubic feet per minute per person.

E) Air duct openings to cells and detention rooms shall be security screened and secured with tamper proof screws or welded to the floor or wall.

F) Heating and ventilation systems shall comply with the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 62-1989, Ventilation for Acceptable Indoor Air Quality.

11) Lighting

A) Prison-type security light fixtures shall be provided installed in cells or detention rooms that provide at least 20 footcandles illumination at 30" above the finished floor.

B) Illumination level must be for supervision purposes, of sufficient intensity to clearly light cells or detention rooms for visual supervision from the cell door at all times.

C) Lights must be switch controlled from outside the cells or detention rooms.

D) Security fixtures shall be used in corridors and vestibules. Standard, safe fixtures are acceptable in corridors or vestibules.

12) Cell or Detention Room Bunks

Bunks shall be of metal or concrete construction securely anchored to walls or floor or otherwise integrally constructed.

13) Monitoring Monitor System

A) An audio auditory or audio-visual auditory-visual monitoring system shall be installed in the cell or detention room area.

B) Cells and detention rooms shall be equipped monitored with at least an auditory monitoring system to allow the jailer to check activities and to provide a means for a confined person to advise the jailer of emergency situations.

14) Emergency Exits

A) There shall be at least one direct emergency exit from a cell block in addition to the cellblock entrance door, where the detention area totals 1200 square feet or more, or where the corridor has a dead end exceeding 50 feet.

B) Every emergency exit shall be clearly marked in accordance with local and State codes sign shall have the word "EXIT" in legible capital letters not less than 4 1/2 inches high with the principal strokes of letters not less than 1/2 inch

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wide.15)167 Visiting Area

Semi-private compartments or a visiting room shall be provided to allow detainees to communicate with authorized visitors.

16)177 Emergency Power Source

A) An emergency electrical power source must be available in the event of a power failure.

B) The emergency power source must be of sufficient capacity to operate electrical locking devices and other electrical equipment and to provide minimum lighting within the jail and its perimeter.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Service Planning and Provision2) Code Citation: 89 Ill. Adm. Code 6843) Section Numbers:

684.10 Proposed Action:

684.60 Amendment

684.80 Amendment

684.100 Amendment

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) A Complete Description of the Subjects and Issues Involved: The Department of Human Services is amending Section 684.60 to increase the circumstances in which the customer's P.A. services can be provided in instances previously not allowed. The amendments eliminate instances where the rules limited the activities the customer could undertake by not allowing services to be reimbursed by DHS - Home Services Program (HSP). Specifically, this amendment will make the Personal Assistants (PA) Service provided to the customer while he/she is at work, traveling outside the home and, for persons with the most severe disabilities while he/she is hospitalized. This revision removes any disincentives to employment by allowing the PA to provide personal care while the eligible customer is at work. The amendment also increases the individual's freedoms by allowing PA service, included in the Service Plan, to be provided when the customer travels away from the home. This will allow customers to travel to conventions, vacations, and for work and to continue to receive the personal care services described in the HSP service plan. Also, the amendment includes cite revisions for other Sections of 684.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This does not create or expand a State mandate rulemaking.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

DEPARTMENT OF HUMAN SERVICES

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Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762

Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: At the time of the development of the January 1998 Regulatory Agenda, this amendment was not anticipated.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 684
SERVICE PLANNING AND PROVISION

Section
684.10 Service Plan
684.20 Procuring an Appropriate Service Provider
684.30 Family Members as Service Providers
684.40 Distribution of the Service Plan
684.50 Service Plan Content
684.60 Provision of Services
684.70 Service Planning Limitations
684.80 Interim Services
684.90 Coordination of HSP and Other Services
684.100 Denial or Termination of HSP Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5129, effective March 21, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

Section 684.10 Service Plan

- a) All services to be provided to an individual through HSP must be necessary to meet an unmet care need of the individual or to provide relief to the caregiver for individuals eligible for respite care services and listed on a HSP Service Plan which is developed for the individual, agreed to and signed by the customer and counselor.
- b) Services provided through HSP to an individual must be:
- 1) safe and adequate;
 - 2) cost effective; and
 - 3) the most economical in terms of the individual's needs, unless a service is not available at the most economical level. In such instances, the next higher service level may be used as long as services remain within the SCM established for the individual. Documentation of an ongoing effort to locate services at the appropriate level must be in the individual's case file.
- c) The initial HSP Service Plan for an individual must be submitted with all other necessary forms to the individual's physician during the eligibility determination phase of the case (89 Ill. Adm. Code 682.100(g)) for the purpose of review and approval of the plan for care by the physician.

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(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 684.100 Denial or Termination of HSP Services

HSP services shall be denied or terminated and case closure initiated at any time the individual:

- a) moves from the State of Illinois or cannot be located or contacted;
- b) is determined to have a projected service cost above that of the projected cost of institutionalization, with the exceptions found at 89 Ill. Adm. Code 682.500(a)(1) 681-508(a)(1), 682.520 681-520, and 684.70(c) 684-50(c);
- c) refuses services or further services;
- d) dies;
- e) is institutionalized and not expected to be released for a period to exceed 60 calendar days;
- f) has been referred to another agency for the same or similar services and no longer requires or is eligible for HSP services;
- g) fails to conduct himself/herself in an appropriate manner (e.g., illegal activity, physical or sexual abuse, or threat thereof, or repeated verbal abuse by a customer against a DHS employee, agent or a provider providing services through HSP);
- h) is not, or is no longer, at risk of institutionalization due to improvement of his/her condition;
- i) fails to meet other eligibility criteria as found at 89 Ill. Adm. Code 682 681 as a result of an initial determination of eligibility or redetermination of eligibility;
- j) fails to cooperate (i.e., refuses to complete and sign necessary forms, fails to keep appointments, fails to maintain adequate providers); or
- k) cannot have a safe and adequate service plan developed for him/her as a result of the original determination of the eligibility or redetermination of eligibility.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 684.60 Provision of Services

a) Except as provided in subsection (b), services shall ~~Services may~~ not be provided to an eligible individual when he/she is:

- 1a) hospitalized;
 - 2b) in a skilled nursing facility or intermediate care facility ~~facility/nursing-facility~~;
 - 3c) not residing in his/her home or non-institutional residence; or
 - 4d) outside the State of Illinois.
- b) With prior approval by the HSP counselor or case manager, Personal Assistance services for customers who have been formally found eligible for services can continue when the individual is:
- 1) at his/her workplace, however, a P.A. shall only be paid to provide personal care comparable to what is provided in the customer's home and not to perform occupational tasks;
 - 2) away from his/her home or other non-institutional residence for a predetermined period; or
 - 3) hospitalized, if the customer has a DON score of 75 or greater.
- c) In the instances described in subsections (a) and (b), the P.A. services, the number of hours of services and cost of services cannot exceed those contained in the customer's current service plan. P.A. services are limited to personal care of the customer. When away from the home, the customer shall provide notification of his/her temporary address to his/her HSP counselor or case manager.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 684.80 Interim Services

Prior to determination of eligibility (89 Ill. Adm. Code 682 681), the individual may receive interim services while an official determination of eligibility (89 Ill. Adm. Code 682 681) is being completed if enough information exists to presumptively establish eligibility based on:

- a) DON score;
- b) evidence of a disability as described at 89 Ill. Adm. Code 682.100(e) 681-100(e) based on medical documentation, counselor observation, or oral information received from a knowledgeable medical professional;
- c) the individual's financial eligibility, per 89 Ill. Adm. Code 682 681: Subpart C;
- d) the individual meets all eligibility criteria as listed in 89 Ill. Adm. Code 682; and
- e) written or verbal approval from the individual's physician as to the appropriateness and safety of the interim service plan agreed to and signed by the customer and the counselor.

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1) Heading of the Part: Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances.

2) Code Citation: 41 Ill. Adm. Code 170

3) Section Numbers: Proposed Action:

| | |
|---------|-----------|
| 170.110 | Amendment |
| 170.422 | Amendment |
| 170.426 | Amendment |
| 170.542 | Amendment |
| 170.545 | Amendment |

4) Statutory Authority: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2]

5) A Complete Description of the Subjects and Issues Involved: These amendments allow the use of siphon bars to connect underground storage tanks and allow basements on property containing underground storage tanks.

6) Will this Proposed Rule Replace an Emergency Rule Currently in Effect? No

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Do these Proposed Amendments Contain Incorporations by Reference? No

9) Are there any Other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: These amendments will lessen the regulatory burden on many small businesses and local governments by allowing underground storage tanks near basements and to manifold tanks together.

11) Time, Place and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Interested parties may submit written comments within 45 days after publication to:

John Pavlou, Chief Counsel
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, IL 62703-4259
217/785-1031

12) Initial Regulatory Flexibility Analysis:

A) Types of Small Businesses and Municipalities Affected: Owners of property containing underground storage tanks.

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B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of Professional Skills necessary for Compliance: None

13) Regulatory Agenda on which this rule was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: The need for this rulemaking was not anticipated at the time the 2 agendas were published.

The full text of the Proposed Amendments begins on the next page:

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TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 170

STORAGE, TRANSPORTATION, SALE AND USE OF
PETROLEUM AND OTHER
REGULATED SUBSTANCES

SUBPART A: MISCELLANEOUS

| Section | Annual Fee |
|---------|---|
| 170.10 | Definitions |
| 170.11 | Incorporation of National Standards |
| 170.15 | Bulk Sales Prohibited |
| 170.20 | Storage Underground and Limited (Repealed) |
| 170.30 | Setting of Tanks (Repealed) |
| 170.40 | Clearance Required for Underground Tanks (Repealed) |
| 170.41 | Location (Repealed) |
| 170.41 | Material and Construction of Tanks (Repealed) |
| 170.50 | Venting of Tanks (Repealed) |
| 170.60 | Underground Tank Installations (Repealed) |
| 170.65 | Fill Pipes (Repealed) |
| 170.70 | Registration of Underground Storage Tanks and Payment of |
| 170.71 | (Repealed) |
| 170.72 | Late Registration Fee (Repealed) |
| 170.75 | Abandonment of Underground Storage Tanks (Renumbered) |
| 170.76 | Leaking Underground Tanks (Repealed) |
| 170.80 | Unloading Operations |
| 170.90 | Pumps (Repealed) |
| 170.91 | Labeling of Containers and Pumps |
| 170.100 | Piping (Repealed) |
| 170.105 | Approval of Plans (Repealed) |
| 170.106 | Installer, Repairer or Remover of Underground Storage Tanks (Repealed) |
| 170.107 | Tester of Underground Storage Tanks and Cathodic Protection (Repealed) |
| 170.108 | Pressure Testing (Repealed) |
| 170.110 | Building |
| 170.115 | Safe Heat Required |
| 170.120 | No Flammable or Combustible Liquids Within Building - Exception |
| 170.130 | Greasing Pits |
| 170.140 | Wash and Greasing Rooms |
| 170.145 | Fire Extinguishers |
| 170.150 | Self-Service - No Self-Service Without Permit; Procedures and Regulations |
| 170.160 | Care and Attendance |
| 170.170 | Fire Extinguishers (Repealed) |
| 170.180 | Sale of Fireworks |

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Approval of Plans (Repealed)

Defective Equipment

Deliveries from Portable Tanks Restricted

Unattended Self-Service Other Than Fleet Operations

SUBPART B: UNDERGROUND STORAGE TANKS--TECHNICAL REQUIREMENTS

| Section | |
|---------|--|
| 170.400 | Definitions |
| 170.410 | Incorporations by Reference |
| 170.411 | USTs Out of Operation One Year |
| 170.412 | Delegation of Authority to Enforce UST Rules and Regulations |
| 170.420 | Design, Construction, Installation and Notification of New UST Systems |
| 170.421 | Piping |
| 170.422 | Clearance Required for Underground Storage Tanks |
| 170.423 | Pressure Testing |
| 170.424 | Venting of Tanks |
| 170.425 | Fill Pipes |
| 170.426 | Pumps |
| 170.427 | Defective or Non-Compliant Equipment |
| 170.428 | General Requirements for UST Fuel Dispensing Systems |
| 170.430 | Upgrading of Existing UST Systems |
| 170.431 | Limitation on Interior Lining of USTs |
| 170.440 | Notification Requirements for Purposes of UST Registration |
| 170.441 | Payment of 1988 Annual UST Fee |
| 170.442 | UST Registration Fees |
| 170.450 | Spill and Overfill Release Control |
| 170.460 | Operation and Maintenance of Corrosion Protection |
| 170.470 | UST Compatibility with Product Stored |
| 170.480 | Repairs Allowed |
| 170.481 | Emergency Repairs |
| 170.490 | Reporting and Recordkeeping |
| 170.500 | General Release Detection Requirements for All UST Systems |
| 170.510 | Release Detection Requirements for Petroleum UST Systems |
| 170.520 | Release Detection Requirements for Hazardous Substance UST Systems |
| 170.530 | Methods of Release Detection for Tanks |
| 170.540 | Methods of Release Detection for Piping |
| 170.541 | Installer, Repairer, Reliner or Remover of USTs and Obtaining Permits |
| 170.542 | Site Plans |
| 170.543 | Notification and Establishment of a Date Certain for Underground Storage Tank Activity |
| 170.544 | Tester of Underground Storage Tanks and Cathodic Protection |
| 170.545 | USTs Inside or Under Buildings |
| 170.546 | UST Restrictions at Service Stations |
| 170.550 | Release Detection Recordkeeping |
| 170.560 | Reporting of Suspected Releases |
| 170.570 | Investigation Due to Off-Site Impacts |

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170.580 Release Investigation and Confirmation Steps
 170.590 Reporting and Cleanup of Spills and Overfills
 170.600 Initial Response for UST Systems Containing Petroleum or Hazardous Substances
 170.610 Initial Abatement Measures and Site Assessment
 170.620 Temporary Out-of-Service Status for UST Systems
 170.630 Change-in-Service of UST Systems
 170.640 Assessing the Site at Removal or Change-in-Service of UST Systems
 170.650 Applicability to Previously Removed UST Systems
 170.660 Removal or Change-in-Service Records
 170.670 Removal or Abandonment-in-Place of Underground Storage Tanks
 170.672 Pre-'74 and Heating Oil USTs

SUBPART C: UNDERGROUND STORAGE TANKS--FINANCIAL RESPONSIBILITY REQUIREMENTS

Section
 170.700 Definitions
 170.705 Incorporation by Reference
 170.710 Applicability
 170.720 Amount
 170.730 Mechanisms of Financial Responsibility
 170.740 Proof of Financial Responsibility
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 170.760 Cancellation or Non-Renewal by a Provider of Financial Assurance
 170.770 Reporting by Owner or Operator
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 170.790 Release from the Requirements
 170.795 Bankruptcy or Other Incapacity of Owner or Operator, or Provider of Financial Assurance

SUBPART D: UNDERGROUND STORAGE TANKS--ADMINISTRATIVE

PROCEDURE RULES FOR ORDERS ISSUED BY THE DIVISION OF PETROLEUM AND CHEMICAL SAFETY

Section
 170.800 Definitions
 170.810 Grounds and Time for Appeal
 170.820 Notice of Hearing
 170.830 Appearances
 170.840 Official Notice
 170.850 Authority of Hearing Officer
 170.860 Evidence to be Presented by the Owner to Object to the Denial or Revocation of the Registration of an Underground Storage Tank (UST) (Repealed)
 170.870 Briefs
 170.880 Transcripts
 170.890 Order of the State Fire Marshal

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170.900 Authority to Enforce Administrative Orders and Assess Fines
 170.910 Suspension or Revocation of the License of a Contractor and Assessment of Fines Against a Contractor or Employee of a Contractor for Violations of Subpart B or E
 170.920 Assessment of Fines Against Non-Contractors for Violations of Subpart B
 170.930 Assessment of Fines Against an Owner, Operator or Provider for Violations of Subpart C
 170.940 Hearing Officer Guidelines for Suspension, Revocation or Assessment of Fines

SUBPART E: LICENSING, CERTIFICATION AND IDENTIFICATION CARDS

Section
 170.1000 Definitions
 170.1100 Contractor Licensing
 170.1200 Contractor and Employee Certification Cards by Certified Individual Possession of OSHA Identification Cards by Contractors
 170.1300 Contractors and Certified Employees of Contractors
 APPENDIX A Checklist for Underground Storage Tank Installation
 APPENDIX B Checklist for Underground Storage Tank Reline
 APPENDIX C Checklist for Underground Storage Tank Removal
 APPENDIX D Checklist for Abandonment-in-Place of Underground Storage Tanks
 APPENDIX E Guidelines for Marinas

TABLE A Schedule for Phase-in of Release Detection

TABLE B Manual Tank Gauging: Weekly and Monthly Standards

AUTHORITY: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].

SOURCE: Rules and Regulations Relating to Service Stations filed July 10, 1958; amended March 6, 1963 and April 4, 1977; codified at 5 Ill. Reg. 10692; emergency amendment at 7 Ill. Reg. 1477, effective January 26, 1983, for a maximum of 150 days; emergency expired June 25, 1983; emergency amendment at 8 Ill. Reg. 10058, effective June 29, 1984, for a maximum of 150 days; emergency expired November 26, 1984; amended at 9 Ill. Reg. 9514, effective October 1, 1985; emergency amendment at 10 Ill. Reg. 345, effective January 1, 1986, for a maximum of 150 days; emergency expired June 1, 1986; emergency amendment at 10 Ill. Reg. 12324, effective July 2, 1986, for a maximum of 150 days; emergency expired November 29, 1986; amended at 10 Ill. Reg. 19976, effective January 5, 1987; amended at 12 Ill. Reg. 8023, effective April 26, 1988; emergency amendments at 13 Ill. Reg. 1886, effective January 27, 1989, for a maximum of 150 days; emergency expired June 26, 1989; amended at 13 Ill. Reg. 5669, effective April 21, 1989; amended at 13 Ill. Reg. 7744, effective May 9, 1989; amended at 13 Ill. Reg. 8515, effective May 23, 1989; amended at 13 Ill. Reg. 8875, effective May 24, 1989; amended at 13 Ill. Reg. 14992, effective September 11, 1989; amended at 14 Ill. Reg. 5781, effective April 10, 1990;

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amended at 15 Ill. Reg. 7042, effective April 29, 1991; amended at 16 Ill. Reg. 4845, effective March 12, 1992; emergency amendment at 17 Ill. Reg. 1186, effective January 12, 1993, for a maximum of 150 days; emergency expired June 11, 1993; amended at 19 Ill. Reg. 5467, effective April 1, 1995; amended at 20 Ill. Reg. 4698, effective March 11, 1996; amended at 21 Ill. Reg. 8945, effective July 15, 1997; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: MISCELLANEOUS

Section 170.110 Building

No furnaces or heaters shall be located in existing service station basements.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART B: UNDERGROUND STORAGE TANKS--TECHNICAL REQUIREMENTS

Section 170.422 Clearance Required for Underground Storage Tanks

- a) Distance to basements, etc. Individual tanks shall be buried so that the tops of the tanks shall be lower than all floors, basements, cellars, or pits of buildings within twenty feet, on or off the property, or tanks shall maintain a clearance of twenty feet to all buildings with basements:

1) Dispensing USTs shall be 20 or more feet from any basement, cellar, pit or below-grade excavation on or off the property. Any dispensing UST system installed after December 22, 1998, within 85 feet of a basement, cellar, pit or other below-grade excavation shall be double-wall with interstitial monitoring.

2) USTs not used for dispensing may be located under a building or not less than 5 feet from a building.

- b) Distance to sewers, etc. Individual tanks and piping shall be buried so that the tops of the tanks and piping shall be lower than the bottom level of all sewers, manholes, catch-basins, cesspools, septic tanks, wells or cisterns within twenty feet, on or off the property, or tanks and piping shall maintain a full clearance of twenty feet. The term "sewer" includes sanitary and storm sewer lines out of service station buildings, provided, however, that these clearances shall not be required when a sewer line out of a service station is constructed throughout of cast iron with lead joints.

- c) Distance to property lines. Individual tanks shall be at least twenty feet to property lines, provided, however, that these clearances on the side adjacent to a public street, alley or highway are waived by consent of the authority having immediate jurisdiction over the public street, alley or highway, provided that the required sewer clearances will be maintained.

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- d) Distance to special classes of property. Tanks and pumps shall maintain a clearance of not less than 300 feet to any mine shaft, air or escape shaft for any mine and 85 feet to any school, institutional, public assembly or theater occupancy, as defined in NFPA 101, incorporated by reference in Section 170.10. The distance shall be measured from the nearest points of tanks and pumps to the nearest points of buildings or shafts.
- e) Where the site size makes compliance with these clearance requirements an impossibility or an imposition, as determined by the Office of the State Fire Marshal during a permit review, a double-wall tank or piping system or both with interstitial monitoring, shall be used and is subject to approval by the Office. Interstitial piping monitoring requirements will be waived for European Suction Piping Systems. Hazardous substance UST systems shall be double-wall, and all such existing systems shall be upgraded to double-wall by December 22, 1998.

- f) Tanks in service on October 1, 1985 may maintain existing underground tank clearances. Existing service stations' basements less than 20 feet from a UST system shall be provided with mechanical ventilation, and only non-sparking explosion proof motors and compressors shall be permitted in such basements. ~~7-provided-they-are-in-conformity-with rules-in-effect-on-January-17-1984. New setback distances will be required when upgrading these existing systems, if existing tanks are removed or if new tanks or islands are installed.~~

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 170.426 Pumps

- a) Petroleum and hazardous substances shall be transferred from tanks by means of fixed pumps so designed and equipped as to allow control of the flow and to prevent leakage or accidental discharge except that siphon bars meeting the requirements below shall be allowed between tanks. ~~the installation of siphon bars is prohibited. Existing siphon bars shall meet the requirements in subsection (a)(2) below or be removed from the UST system by December 22, 1998 or when the system is upgraded, whichever occurs first. In the event the system has been upgraded prior to April 17, 1995, the siphon bars shall be removed by December 22, 1998.~~ Supplemental means shall be provided outside of the dispensing device whereby the source of power may be readily disconnected in the event of fire or other dangerous condition.

1) Dispensing devices for petroleum and applicable hazardous substances shall meet the requirements of UL 842, incorporated by reference in Section 170.410. Liquid shall be withdrawn from tanks by means of pumps in conformity with Chapter 5 of NFPA 70, incorporated by reference in Section 170.410, and equipped with

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static wire hose and non-ferrous discharge nozzle, except that used oil tanks are not subject to the requirement of transfer by means of fixed pumps.

- 2) Siphon bars between tanks that are used to transfer petroleum and hazardous substances between tanks by means of gravity or negative atmospheric pressure shall be permitted subject to the following requirements:

- A) The height of the tops of the tanks shall be the same.
- B) Piping shall meet the requirements of Section 170.421.
- C) Release detection methods for tanks and piping shall be of a type approved for tanks connected by siphon bars in accordance with Section 170.530(1), and
- D) Siphon bars piping shall be at the top of the tanks and level.

- b) No pump or dispensing device shall be located within a building. This does not include pump houses designed to house transfer pumps only; also, this does not include pump houses designed to house transfer pumps at refineries used in conjunction with pipeline product transfers or any refinery processing. Transfer pumps located at industrial or commercial facilities are excluded from the requirements of this Section. Dispensers located at industrial or commercial facilities that contain a regulated substance shall be approved by the Office of the State Fire Marshal.

- 1) Existing pumps and dispensing devices within garages, as of October 1, 1985, are permitted provided the dispensing area is:

- A) Not below-grade;
- B) Separated from motor vehicle repair areas, pits and basements;
- C) Protected against physical damage from vehicles by mounting the dispensing unit on a concrete island or by equivalent means;

- D) Located in a position where it cannot be struck by a vehicle descending a ramp or other slope out of control;

- E) Provided with an approved mechanical or gravity ventilation system; and

- F) Provided with a clearly identified switch, readily accessible in case of fire or physical damage to any dispensing units to shut off the power to dispensing units.

- 2) Existing dispensing units located below-grade, as of October 1, 1985, shall have independent mechanical ventilation systems and the entire dispensing area shall be protected by an automatic sprinkler system conforming to the requirements of 41 Ill. Adm. Code 100.220.

- A) The ventilation systems shall be electrically interlocked with the gasoline dispensing units, so that the dispensing units cannot be operated unless the ventilation fan motors are energized and operating.

- B) Existing dispensing units located below-grade within

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buildings shall also comply with subsection (b)(1) above, as applicable.

- c) Curb pumps or pumps located in any portion of a public street are prohibited.

- d) Wiring of electric pumps and all electrical equipment in connection therewith shall conform to Chapter 5 of NFPA 70, incorporated by reference in Section 170.410 (product piping and electrical wiring shall be as directed in Section 170.421(e)).

- e) Devices which discharge by gravity are prohibited and were to have been removed by January 1, 1986. Gravity devices at service stations which are retained for their novelty or historical interest may be retained at the facility but shall be rendered non-functional.

- f) Systems which employ continuous air pressure on storage tanks in connection with gauging or venting devices are prohibited, with the exception of those systems utilized in Stage II Vapor Recovery.

- g) The use of aboveground storage tanks in connection with gauging or venting devices is prohibited, as clarified elsewhere in this Section. Retail sale from aboveground tanks is prohibited except as allowed in 41 Ill. Adm. Code 180.

- h) New installations of apparatus for dispensing petroleum into fuel tanks of vehicles shall not be connected to either aboveground or underground bulk storage tanks. This does not include cargo tanks mounted on tanker trucks for transporting purposes.

- i) Dispensing devices at an automotive service station shall be so located that all parts of the vehicle being served will be on the premises of the service station. For dispensing devices located inside buildings, openings beneath dispenser enclosures shall be sealed to prevent the flow of leaking fuel to lower building spaces. Pump houses designed to house transfer pumps only are not considered buildings, as per this Section.

- j) Dispensing devices at marine service stations may be located on open piers, wharves, floating docks, on shore or on piers of the solid-fill type and shall be located away from other structures so as to provide room for safe ingress and egress of craft to be fueled. Openings beneath marina dispensing enclosures shall be sealed to prevent the flow of leaking fuel into the water beneath them. Marina installations shall follow guidelines located in Appendix E of this Part, as established by the Office of the State Fire Marshal. Spill containment shall be provided on docks adjacent to dispensers to contain spills that may occur during the filling of approved portable containers.

- k) Dispensing units existing prior to September 15, 1978, may be located inside buildings if specific written approval of the Office of the State Fire Marshal was granted by October 1, 1985, and proof of such was submitted by the applicant and verified by the Office. The dispensing area shall be separated from other areas by two-hour fire resistive construction, as defined in Section 707 of the BOCA National Building Code, incorporated by reference in Section 170.410. The

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dispensing area shall be provided with a mechanical or gravity ventilation system; all components of which shall comply with the requirements of NFPA 70, incorporated by reference in Section 170.410. Kerosene dispensers shall not be located on the same island with petroleum or hazardous substances. Labeling of dispensers shall comply with the Space Heating Safety Act [425 ILCS 65].

m) Hoses at service stations shall not exceed 18 feet in length, as required in NFPA 30A 4-2.6, referenced in Section 170.410, except as permitted in subsection (n) below.

n) Mechanical retractable hose reels are required on dispenser hoses in excess of 18 feet in length. Hose length on mechanical retractors shall not exceed 50 feet and may only be installed with written approval of the Office of the State Fire Marshal.

o) Dispenser pumps shall be located outside of buildings and not less than five feet from any building or less than five feet measured vertically and horizontally from any window or other building opening, such as a basement, cellar, pit, ventilated soffit or any air intake or exhaust of any building, and in a location that will not permit pocketing of vapor or liquid. The Office of the State Fire Marshal shall approve dispenser locations only where in its judgment a safety hazard does not exist. Location of new dispenser pumps shall be in accordance with the following:

- 1) Not below-grade;
- 2) Separated from motor vehicle repair areas, pits and basements;
- 3) Protected against physical damage from vehicles by mounting the dispensing unit on a concrete island or by equivalent means; and
- 4) Located in a position where it cannot be struck by a vehicle descending a ramp or other slope out of control.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 170.542 Site Plans

a) Site plans made to scale shall be submitted in triplicate, by the contractor listed on the permit application, to the Office of the State Fire Marshal and are subject to approval by the Office before any new construction, addition or remodeling which alters building size, dispenser locations or locations or sizes of vehicle service area or storage tanks. Removals, relines and upgrades, which involve replacing equipment with that of identical manufacture and model, do not require the submission of site plans; however, permits are required in accordance with Section 170.541. Site plans shall be legible and sizes shall be 8 1/2" x 11", 8 1/2" x 14" or 11" x 17" only; blueprints are not acceptable as site plans. Separate permit application forms are provided for installation, removal, upgrade or repair, relining or abandonment-in-place. Drawings shall carry the name of the contractor proposing the installation, the location with

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reference to city, village or town, and shall show the following:

- 1) The plot to be utilized and its immediate surroundings on all sides. All property lines are to be designated and adjacent streets and highways shall be named.
- 2) The complete installation as proposed, including tanks and their capacities, class of liquids to be stored, pumps, buildings, drives and all equipment.
- 3) Clearance from tanks to property lines as required by Section 170.422.
- 4) Type of construction of service station building or buildings, clearly showing that there will be no new basement, cellar or excavation within 20 feet of any underground storage tank system and that any tanks and piping within 85 feet shall be double wall with interstitial monitoring under-any-portion.
- 5) Location of basements, cellars or pits of other buildings on the property or on adjacent property and location of tanks with reference thereto, as required by Section 170.422. If a building has no basement, cellar or pit, a notation to that effect should be made in the proper place.
- 6) Location of sewers, manholes, catch basins, cesspools, septic tanks, wells or cisterns (whether on the property, adjacent property or in adjoining streets, highways or alleys), and location of tanks with reference thereto, as required by Section 170.422. If there is no sewer, manhole or catch basin in a street or alley or no sewer, cesspool, septic tank, well or cistern on a property, a notation to that effect should be made in the proper place.
- 7) Location of vent pipe outlets as required by Section 170.424(d) and location of fill pipes as required by Section 170.425.
- 8) Ventilation of greasing pits as required by Section 170.130, if greasing pit is located within a building or an enclosure.
- 9) Drawings shall be accompanied by an application for approval made out in triplicate on forms furnished by the Office of the State Fire Marshal.
- 10) Plans will be approved if they meet the requirements contained in this Subpart, and a written granted permit will be issued when the conditions are met.
- b) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such an agreement, the City has the authority to modify this Section to change any reference to "Office of the State Fire Marshal," or variation thereof, to the appropriate City authority.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 170.545 USTs Inside or Under Buildings

ILLINOIS REGISTER

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Accelerated Life Benefit/Terminal Illness/Qualified Conditions
- 2) Code Citation: 50 Ill. Adm. Code 1407
- 3) Section Numbers: Proposed Action:
1407.10 Amendment
1407.20 Amendment
1407.30 Amendment
1407.60 Amendment
- 4) Statutory Authority: Implementing and authorized by Article I, Section 4 of the Illinois Insurance Code [215 ILCS 5/4].

5) A Complete Description of the Subjects and Issues Involved: Part 1407 is being amended to allow insurance companies to combine accelerated life benefits with qualified conditions into one policy form. Housekeeping changes are also being made.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this amendment contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These amendments will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Cindy Stephenson
Staff Attorney
Department of Insurance
320 West Washington
Springfield, IL 62767
(217)782-1785

(or)

Mary Meyer
Paralegal
Department of Insurance
320 West Washington
Springfield, IL 62767
(217)785-8220

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit

ILLINOIS REGISTER

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- a) The floor level, under which a UST is located, shall be above-grade so as to prevent the flow of liquids or vapors into buildings, and the floors shall be of concrete or other fire resistant construction.
- b) ~~No basement or excavation shall be constructed under any service station building. Existing basements under service stations shall be eliminated or provided with mechanical ventilation and only non-sparking explosion-proof motors and compressors shall be permitted in existing basements.~~
- bc) No buildings, commencing April 1, 1995, shall be constructed over UST systems, in operation or out of operation (for any period of time); unless, they are exempted from removal pursuant to Section 170.670(a)(4) or (5). Any such UST system over which a building is constructed shall not subsequently be eligible for an abandonment-in-place permit, as issued pursuant to Section 170.670(d).
- cd) No USTs or dispensers, containing motor fuel, shall be installed inside buildings, except as authorized pursuant to Section 170.426(k).
- de) Underground product piping connecting USTs or dispensers, containing motor fuel, shall not be routed under buildings whenever feasible, except used oil UST piping with an inside fill may be permitted subject to approval by the Office of the State Fire Marshal on the applicable permit.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED AMENDMENTS
TITLE 50: INSURANCE
CHAPTER 1: DEPARTMENT OF INSURANCE
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCE

PART 1407
ACCELERATED LIFE BENEFIT/TERMINAL ILLNESS/QUALIFIED CONDITIONS

| | |
|---------|--------------------------------|
| Section | Purpose and Applicability |
| 1407.10 | Definitions |
| 1407.20 | Form Requirements |
| 1407.30 | Standards for Claims Payment |
| 1407.40 | Required Disclosure Provisions |
| 1407.50 | Reserves |
| 1407.60 | |

AUTHORITY: Implementing and authorized by Article I, Section 4 of the Illinois Insurance Code [215 ILCS 5/4].

SOURCE: Adopted at 15 Ill. Reg. 8872, effective June 7, 1991; amended at 22 Ill. Reg. _____, effective _____.

Section 1407.10 Purpose and Applicability

The purpose of this Part is to regulate accelerated benefit provisions in individual and group life insurance policies, contracts, riders, endorsements or amendments and to provide required standards of disclosure. This Part is not applicable to Long-Term Care policies, contracts, riders, endorsements or amendments subject to the provisions of Article XIXA of the Illinois Insurance Code [215 ILCS 5/351A-1] (Ill.-Rev.-Stat.-1989--ch--737--Pars--963A-i-et-seq-7).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1407.20 Definitions

"Accelerated Benefits" means amounts payable in advance of the time life insurance benefits would otherwise be payable because of the occurrence of a terminal illness or a qualified covered condition.

"Qualified Actuary" means a person that meets the requirements of 50 Ill. Adm. Code 920.

"Qualified Covered Condition" means any one of the separate covered conditions as set forth in Section 4, Class 1(a) of the Illinois Insurance Code [215 ILCS 5/4(a)] (Ill.-Rev.-Stat.-1989--ch--737--Pars--963A-i-et-seq-7) as amended by P.A. 86-1176, effective August 15, 1990; the occurrence of which may result in the payment of an accelerated benefit of up to 25% of the face amount of the policy.

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corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this amendment was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

"Terminal Illness" means a medical condition which, in the opinion of a physician who is licensed to practice medicine in all of its branches, would generally result in the insured's death within a period not to exceed 24 months, or any condition which requires continuous confinement in an eligible institution if the insured is expected to remain until death.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1407.30 Form Requirements

No policies, contracts, riders, endorsements or amendments which provide for accelerated benefits may be issued for delivery in this State unless they meet the following requirements.

a) General Standards and Practices

- 1) The name given to the coverage must be descriptive of the coverage provided and the terminology "accelerated benefit" shall be included in the descriptive title. Products regulated under this Part shall not be described or marketed as long-term care insurance or as providing long-term care benefits.
- 2) The death benefit net of any outstanding policy loans shall not be reduced more than the amount of the accelerated benefits and any applicable accrued interest, or any applicable actuarial present value discount appropriate to the policy design.
- 3) The renewability and cost of any accelerated benefit life insurance policy must be guaranteed for the term of the policy or rider. This requirement will not apply to coverage in which the insurer pays the present value of the life insurance face amount based on an applicable actuarial discount. The requirements of this subsection (a)(3) are not applicable to group insurance.
- 4) The insurer may pay a present value of the face amount. The calculation shall be based on any applicable actuarial discount appropriate to the policy design. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:
 - A) The current yield on 90 day treasury bills; or
 - B) The current maximum policy loan interest rate.
- 5) The insurer may accrue an interest charge on the amount of the accelerated benefits. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the policy or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:
 - A) The current yield on 90 day treasury bills; or
 - B) The current maximum policy loan interest rate.

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- 6) The interest rate accrued on the portion of the lien which is equal in amount to the cash value of the policy at the time of the benefit acceleration shall be no more than the policy loan interest rate stated in the policy.

b) Filing Requirements

- 1) All policy forms and certificate forms pertaining to an accelerated benefit shall be filed with the Department of Insurance for its review and approval prior to their use in this State.
- 2) If the filing is other than a policy or contract, the insurer shall provide the form number of the policy or contract form or forms with which the accelerated benefit filing is to be used.
- 3) If a form provides for a reduction in policy values following payment of the accelerated benefit, the insurer shall provide the Department with an actuarial explanation of the policy value reductions and the remaining premium, if any.
- 4) ~~In--no-event--with--the-benefit--for--accelerated-benefit--terminal--illness--and--accelerated--benefit--qualified--covered---condition coverage--be-combined-under-one-policy-or-rider-~~
4)5) The insurer shall file with the Department the disclosure statements it will utilize to comply with Section 1407.50 of this Part.
- 5)6) Concurrently with the accelerated benefit policy form filing required by this Section, the insurer shall file an actuarial memorandum prepared by a qualified actuary that describes the accelerated benefit(s), the risks, the expected costs and the calculation of statutory reserves in compliance with applicable valuation and nonforfeiture law. [215 ILCS 5/223 and 229.2] ~~Ill--Rev--Stat--1997--ch--73--par--835--and--841-27-~~ The insurer shall maintain in its files descriptions of the bases and procedures used to calculate its accelerated benefit provisions.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1407.60 Reserves

- a) When benefits are provided through the acceleration of benefits under group or individual policies or riders to such policies, policy reserves shall be determined in accordance with Section 223 of the Illinois Insurance Code [215 ILCS 5/223] ~~Ill--Rev--Stat--1997--ch--73--par--835-~~ All valuation assumptions used in constructing the reserves shall be determined as appropriate for statutory valuation purposes by a qualified actuary. Reserves in the aggregate shall be sufficient to cover:
 - 1) Policies upon which no claim has yet arisen; and
 - 2) Policies upon which an accelerated benefits claim has arisen.
- b) For policies and certificates which provide actuarially equivalent

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- benefits, no additional reserves need to be established.
- c) Policy liens and policy loans, including accrued interest, represent assets of the company for statutory reporting purposes. For any policy on which the policy lien exceeds the policy's statutory reserve liability such excess must be held as a non-admitted asset.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Revision of the Minimum Mortality Standard for Valuation of Annuity and Pure Endowment Contracts
- 2) Code Citation: 50 Ill. Adm. Code 935
- 3) Section Numbers: Proposed Action:
935.10 Amendment
935.20 Amendment
935.30 Amendment
935.40 Amendment
935.50 Amendment
935.55 New Section
935.60 Repeal
935.70 Repeal
- 4) Statutory Authority: Implementing and authorized by Section 223 and 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].
- 5) A Complete Description of the Subjects and Issues Involved: These amendments incorporate the changes that were made to the NAIC Model Rule "For Recognizing a New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities". This amendment introduces two new valuation mortality tables, the 1994 Group Annuity Reserving (1994 GAR) Table and the Annuity 2000 Mortality Table, for calculating minimum statutory reserves for individual and group annuities. These tables reflect more current mortality rates than are now being used. Using lower mortality rates will increase the minimum statutory reserves for annuity products.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this amendment contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These amendments will not necessitate that the Department establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED AMENDMENTS
TITLE 50: INSURANCE
CHAPTER 1: DEPARTMENT OF INSURANCE
SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES
PART 935
REVISION OF THE MINIMUM MORTALITY STANDARD
FOR VALUATION OF ANNUITY AND PURE ENDOWMENT CONTRACTS

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED AMENDMENTS

Jim Rundblom
Staff Attorney
Department of Insurance
320 West Washington (or)
Springfield, IL 62767
217-785-8559

Mary Meyer
Paralegal
Department of Insurance
320 West Washington
Springfield, IL 62767
217-785-8220

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: No small businesses, small municipalities or not for profit corporations will be affected by these amendments.
 - B) Reporting, bookkeeping or other procedures required for compliance: Please see Sections 935.40, 935.50 and 935.55 of this Part.
 - C) Types of professional skills necessary for compliance: The addition of the two new mortality tables to this Part does not require any additional professional skills for compliance with this Part.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: the changes made to the NAIC Model Rule were just recently received by the Department.

The full text of the Proposed Amendments begins on the next page:

Section
935.10 Authority
935.20 Purpose
935.30 Definitions
935.40 Individual Annuity or Pure Endowment Contracts
935.50 Group Annuity and Pure Endowment Contracts
935.55 Application of the 1994 GAR Table
935.60 Severability (Repealed)
935.70 Effective Date (Repealed)

AUTHORITY: Implementing and authorized by Sections 223 and 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].

SOURCE: Adopted at 9 Ill. Reg. 16857, effective December 31, 1985; amended at 22 Ill. Reg. _____, effective January 1, 1999.

Section 935.10 Authority

This Part is promulgated by the Director of Insurance pursuant to Sections 223 and 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401] ~~†††††-Rev-Stat-1983-and-1984-Supp-77-Ch-737-pars-835-and-18137.~~

(Source: Amended at 22 Ill. Reg. _____, effective January 1, 1999)

Section 935.20 Purpose

The purpose of this Part is to recognize the following mortality tables ~~approve new-mortality-tables-1983-table-a-and-1983-GAM-table~~ for use in determining the minimum standard of valuation of annuity and pure endowment contracts: the 1983 Table "a", the 1983 Group Annuity Mortality (1983 GAM) Table, the Annuity 2000 Mortality Table, and 1994 Group Annuity Reserving (1994 GAR) Table.

(Source: Amended at 22 Ill. Reg. _____, effective January 1, 1999)

Section 935.30 Definitions

"1983 Table "a" means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of

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Insurance Commissioners.

"1983 Group Annuity Mortality (GAM) Table" means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners.

1994 Group Annuity Reserving (GAR) Table means that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and adopted as a recognized mortality table for annuities in December 1996 by the National Association of Insurance Commissioners (NAIC) as published in the Transactions of the Society of Actuaries, Vol. XLVII, pp. 866-867. No later amendments or editions shall be included.

Annuity 2000 Mortality Table means that mortality table developed by the Society of Actuaries Committee on Life Insurance Research and adopted as a recognized mortality table for annuities in December 1996 by the NAIC as published in the Transactions of the Society of Actuaries, Vol. XLVII, p. 240. No later amendments or editions shall be included.

(Source: Amended at 22 Ill. Reg. _____, effective January 1, 1999)

Section 935.40 Individual Annuity or Pure Endowment Contracts

- a) Except as provided in subsections (b) and (c) of this Section, the 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after September 8, 1977.
- b) Except as provided in subsection (c) of this Section, the 1983 Table "a" or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after December 31, 1985 the-effective-date-of-this-Part.
- c) Except as provided in subsection (d) of this Section, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1999.
- d) The 1983 Table "a" without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 1999, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

- 1) Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;

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NOTICE OF PROPOSED AMENDMENTS

- 2) Settlements involving similar actions such as workers' compensation claims; or
- 3) Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

(Source: Amended at 22 Ill. Reg. _____, effective January 1, 1999)

Section 935.50 Group Annuity and Pure Endowment Contracts

- a) Except as provided in subsections (b) and (c) of this Section, the 1983 GAM Table, and the 1983 Table "a" and the 1994 GAR Table are recognized and approved as group annuity mortality tables for determining the minimum standards of valuation and, at the option of the company, any one of these tables either-table may be used for purposes of valuation for any annuity or pure endowment purchased on or after September 8, 1977 under a group annuity or pure endowment contract.
- b) Except as provided in subsection (c) of this Section, either the 1983 GAM Table or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after December 31, 1985 the-effective-date-of--this Part under a group annuity or pure endowment contract.
- c) The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1999 under a group annuity or pure endowment contract.

(Source: Amended at 22 Ill. Reg. _____, effective January 1, 1999)

Section 935.55 Application of the 1994 GAR Table

In using the 1994 GAR Table, the mortality rate for a person age x in year $(1994+n)$ is calculated as follows:

$$q_{1994+n} = q_{1994} (1-AA_n)^x$$

where the q_{1994} and AA_n are as specified in the 1994 GAR Table.

(Source: Added at 22 Ill. Reg. _____, effective January 1, 1999)

Section 935.60 Severability (Repealed)

if-any-Section-or-portion-of-a-Section--of--this--Part--or--the--applicability thereof--to--any--person--or--circumstance--is--held--invalid--by--a--court--the remainder-of-the-Part--or--the-applicability-of--such--provision--or--circumstance,

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NOTICE OF PROPOSED AMENDMENTS

~~shall not be affected thereby:~~

(Source: Repealed at 22 Ill. Reg. _____, effective January 1, 1999)

Section 935.70 Effective Date (Repealed)

~~the effective date of this Part is December 31, 1995.~~

(Source: Repealed at 22 Ill. Reg. _____, effective January 1, 1999)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Boat and Snowmobile Registration and Safety
- 2) Code Citation: 17 Ill. Adm. Code 2010
- 3) Section Numbers: Proposed Action:
2010.21 New Section
- 4) Statutory Authority: Implementing and authorized by Sections 3-1, 3-2, 3-3, 4-1 and 9-1 of the Boat Registration and Safety Act [625 ILCS 45/3-1, 3-2, 3-3, 4-1 and 9-1] and the Snowmobile Registration and Safety Act [625 ILCS 40].
- 5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part are being made to eliminate the need for a motorized vehicle used for transportation on water to be titled both by the Secretary of State and the Department of Natural Resources.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield, IL 62701-1787
217/782-1809
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance:
None

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C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER e: LAW ENFORCEMENT

PART 2010
BOAT AND SNOWMOBILE REGISTRATION AND SAFETY

Section

2010.20 Form of Application for Boat Registration and Title
2010.21 Application Requirements on Motorized Vehicles Titled by the Illinois

Secretary of State

2010.25 Form of Application for Snowmobile Registration
2010.30 Numbering Pattern to be Used for Boat Registration
2010.35 Numbering Pattern to be Used for Snowmobile Registration
2010.40 Display of Number on Boats
2010.50 Change of Address (Repealed)
2010.60 Reports in Case of Accident
2010.70 Statutory Authority (Repealed)
2010.80 Renewals for Boat and Snowmobile Registration
2010.90 Authorized Dealers

AUTHORITY: Implementing and authorized by Sections 3-1, 3-2, 3-3, 4-1 and 9-1 of the Boat Registration and Safety Act [625 ILCS 45/3-1, 3-2, 3-3, 4-1 and 9-1] and the Snowmobile Registration and Safety Act [625 ILCS 40].

SOURCE: Filed January 13, 1960; codified at 5 Ill. Reg. 10660; amended at 8 Ill. Reg. 7801, effective May 23, 1984; amended at 10 Ill. Reg. 9769, effective May 21, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 9028, effective June 26, 1997; amended at 21 Ill. Reg. 15235, effective November 17, 1997; amended at 22 Ill. Reg. _____, effective _____.

Section 2010.21 Application Requirements on Motorized Vehicles Titled by the Illinois Secretary of State

- a) Motorized vehicles that may be used on water that are titled by the Illinois Secretary of State will be accepted as titled by the Department and, as such, will not be required to be titled with the Department.
- b) Such vehicles, if used on water, must be numbered in accordance with the Boat Registration and Safety Act.

(Source: Added at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting

- 2) Code Citation: 17 Ill. Adm. Code 530

- 3) Section Numbers: Proposed Action:
 530.70 Amendments
 530.80 Amendments
 530.90 Amendments
 530.100 Amendments
 530.105 Amendments
 530.110 Amendments

- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].

- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to open and close State-owned or -managed sites to the upland game season and to change regulations and application procedures on the sites.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
 No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
 Department of Natural Resources
 524 S. Second Street
 Springfield, IL 62701-1787
 217/782-1809

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF NATURAL RESOURCES

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- A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

- B) Reporting, bookkeeping or other procedures required for compliance:
 None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rule was summarized: January 1988

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 530
COCK PHEASANT, HUNGARIAN PARTRIDGE, BOBWHITE QUAIL,
AND RABBIT HUNTING

- Section
530.10 Statewide General Regulations
530.20 Statewide Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Cottontail and Swamp Rabbit Regulations
530.30 Statewide Hungarian Partridge Regulations (Repealed)
530.40 Statewide Bobwhite Quail Regulations (Repealed)
530.50 Statewide Rabbit Regulations (Repealed)
530.60 Statewide Crow Regulations (Repealed)
530.70 Controlled Pheasant Hunting Sites Permit Requirements
530.80 Controlled Pheasant Hunting Regulations
530.90 Illinois Youth Pheasant Hunting Sites Permit Requirements
530.100 Illinois Youth Pheasant Hunting Regulations
530.105 Regulations for Fee Hunting of Pheasant, Hungarian Partridge, Quail and Rabbit at Controlled Daily Drawing Pheasant Hunting Sites
530.110 Regulations for Non-Fee Hunting of Cock Pheasant, Hungarian Partridge, Quail, and Rabbit at Various Department-Owned or -Managed Sites
530.115 Regulations for Hunting by Falconry Methods at Various Department-Owned or -Managed Sites
530.120 Regulations for Hunting Crow at Various Department-Owned or -Managed Sites (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].

SOURCE: Adopted at 5 Ill. Reg. 8777, effective August 25, 1981; codified at 5 Ill. Reg. 10634; amended at 6 Ill. Reg. 10667, effective August 20, 1982; amended at 7 Ill. Reg. 10755, effective August 24, 1983; amended at 8 Ill. Reg. 21574, effective October 23, 1984; amended at 9 Ill. Reg. 15846, effective October 8, 1985; amended at 10 Ill. Reg. 15579, effective September 16, 1986; emergency amendment at 10 Ill. Reg. 18822, effective October 16, 1986, for a maximum of 150 days; emergency expired March 15, 1987; amended at 11 Ill. Reg. 10546, effective May 21, 1987; amended at 12 Ill. Reg. 12016, effective July 7, 1988; amended at 13 Ill. Reg. 12796, effective July 21, 1989; emergency amendment at 13 Ill. Reg. 12985, effective July 31, 1989, for a maximum of 150 days; emergency expired December 28, 1989; amended at 13 Ill. Reg. 17348, effective October 27, 1989; amended at 14 Ill. Reg. 10775, effective June 20, 1990; emergency amendment at 14 Ill. Reg. 18324, effective October 29, 1990,

DEPARTMENT OF NATURAL RESOURCES

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for a maximum of 150 days; emergency expired March 28, 1991; amended at 15 Ill. Reg. 9924, effective June 24, 1991; emergency amendment at 15 Ill. Reg. 16124, effective October 25, 1991, for a maximum of 150 days; emergency expired March 23, 1992; amended at 15 Ill. Reg. 18138, effective December 6, 1991; amended at 16 Ill. Reg. 12470, effective July 28, 1992; amended at 16 Ill. Reg. 18951, effective December 1, 1992; amended at 17 Ill. Reg. 15534, effective September 10, 1993; amended at 18 Ill. Reg. 12628, effective August 9, 1994; amended at 19 Ill. Reg. 12615, effective August 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12397, effective August 30, 1996; amended at 21 Ill. Reg. 9042, effective June 26, 1997; amended at 22 Ill. Reg. _____, effective _____.

Section 530.70 Controlled Pheasant Hunting Sites Permit Requirements

- a) Applicants must contact the Department of Natural Resources (Department or DNR) to obtain a permit reservation. (However, for Wayne Fitzgerald, Silver Springs State Park, Ramsey Lake State Park, Horseshoe Lake State Park (Madison County), Chain O'Lakes State Park and Lee County Conservation Area (Green River), applicants must contact the concessionaire. Should the concessionaire, for any reason, fail to operate the concession, applicants must contact DNR.) Starting dates and methods for making reservations will be publicly announced. Only applications for reservations submitted by Illinois residents will be processed during the first two weeks of the application period. Reservations will be confirmed.
- b) Permits will be issued until the daily quota is filled. The daily quota is determined by the formula one hunter per 10 to 80 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available, the condition, topography, and configuration of the land at the site, the condition of the roads at the site, and the number of employees available to work at the site.
- c) For all DNR operated sites except Site M and Sand Ridge the permit authorizes the permit holder to bring one hunting partner. (The hunting partner cannot hunt without the permit holder being present to hunt.) At Site M and Sand Ridge the permit is valid for the permit holder only. The Springfield Permit Office cannot transfer or alter reservations to change hunting areas, dates or hunters' names. For all DNR operated sites except Site M, Sand Ridge and Wayne Fitzgerald, permits cannot be transferred on the hunting areas. The fee for transferred permits cannot exceed the fee in the Wildlife Code for daily usage stamps for Public Hunting Grounds for Pheasants. For other information write to:

Illinois Department of Natural Resources
Pheasant
524 South Second St., Room 210

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70) The controlled hunting season on Sand Ridge State Forest is November 7, 1998 through January 15, 1999 except closed-to-controlled-hunting-on-December-25.

- b) Hunting hours are from 9:00 a.m. to 4:00 p.m. (except on Thanksgiving Day hunting hours are 9:00 a.m. to 1:00 p.m. at Sand Ridge). Hunters with reservations are required to check in at the check station between 7:00 a.m. and 8:00 a.m. (except at Site M Controlled Unit, Silver Springs, Horseshoe Lake State Park (Madison County), Ramsey Lake and Sand Ridge where hunters are required to check in between 8:00 a.m. and 8:30 a.m.). Reservations are void after 8:00 a.m. (except at Site M, Sand Ridge and Wayne Fitzgerald where reservations are void after 12:00 noon).
- c) When daily quotas are not filled, permits shall be issued on a first come-first served basis until 12:00 Noon.
- d) Hunting licenses, daily usage stamps and fees:
 - 1) Hunters are required to deposit their hunting license in the check station while hunting. Persons exempt by law from having a hunting license must deposit their Firearm Owner's Identification Card. If they are under 21 years old and do not have a card they must be accompanied by a parent, legal guardian or a person in loco parentis who has a valid card in possession.
 - 2) At the Chain-O-Lakes-State-Park, Des-Plaines-Conservation-Area, Iroquois County Conservation Area and Moraine-View-State-Park hunters must obtain a daily usage stamp from the Department prior to hunting except on November 29 30 hunters under 16 are not required to obtain a stamp.
 - 3) At the Des-Plaines Conservation Area, Moraine View State Park, Site M, Eldon Hazlet State Park (Carlyle Lake), Wayne Fitzgerald State Park and Sand Ridge hunters must obtain a daily usage stamp from the Department prior to hunting, except on November 29 30 and December 26 27 hunters under 16 are not required to obtain a stamp.
 - 4) At-Stives--Springs-State-Park-Ramsey-Lake-State-Park-Horseshoe Lake-State-Park--Madison--County--and--Lee--County--Conservation Area--a-Bait-Usage-Stamp-is-not-required. Fees and methods of payment at the following these sites will be publicly announced:

Chain O'Lakes State Park
Horseshoe Lake State Park (Madison County)
Lee County Conservation Area
Ramsey Lake State Park
Silver Springs State Park

- e) Hunters must wear a back patch issued by the check station.
- f) Anyone who has killed game previously and has it in his possession or in his vehicle must declare it with the person in charge of the area when he checks in. All such game found in a hunter's possession after he has started hunting on the area shall be considered illegally taken

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P.O. Box 19457
Springfield, Illinois 62794-9457

- d) Reservations for pheasant hunting will be issued from the Springfield Permit Office for Chain-O-Lakes-State-Park, Des-Plaines Conservation Area, Eldon Hazlet State Park (Carlyle Lake), Iroquois County Conservation Area and Moraine View State Park.
- e) At Site M and Sand Ridge reservations for the controlled hunting area will be issued from the site headquarters.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 530.80 Controlled Pheasant Hunting Regulations

- a) The controlled hunting season is November 4, 1998 5 through January 3, 1999 December-14, both dates inclusive, with the following exceptions:
 - 1) All areas shall be closed to pheasant permit hunting on every Monday and Tuesday during the controlled hunting season and on December 25. With authorization from the Director, controlled pheasant hunting may be scheduled on Monday and Tuesday on DNR operated areas.
 - 2) All areas are open to the Illinois Youth Pheasant Hunting Program only on November 8 9 (except at the Richland County Controlled Pheasant Hunting Area where the Illinois Youth Pheasant Hunt will be November 22 and except at Site-M-Controlled-Unit, Sand-Ridge Silver Springs and Ramsey Lake where a Youth Pheasant Hunting Program will not be held).
 - 3) The controlled hunting season on the Des-Plaines Conservation Area is closed during the November 3-day firearm deer season November-5-through-November-20, November-26-through-December-21 1997.
 - 4) The controlled hunting season on the Lee County Conservation Area (Green River), Silver Springs State Park, Horseshoe Lake State Park (Madison County), Chain O'Lakes State Park and Ramsey Lake State Park will be publicly announced.
 - 5) The controlled hunting season on the Site M Controlled Unit is November 7, 1998 through January 15, 1999 1999, except closed to controlled hunting on November 20-22 and 21-23 1997 December 2-6 3-7 and-25.
 - 6) The controlled hunting season on the Iroquois County Conservation Area is November 4 October-29-through-November-20 and-November-26 through December 20, 1998, except closed during the November 3-day firearm deer season 14-1997.
- 7) The controlled hunting season on Eldon-Hazlet-State-Park-(Carlyle Lake)-and-Wayne-Fitzgerald--State-Park-(Eldon-Lake)-is-November-5 through-January-4-1999-except-closed-to-controlled-hunting-on December-25.

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if the hunter has not declared it prior to going into the field.

- g) All hunting must be done with shotguns or bow and arrow. Only shot shells with a shot size of No. 5 lead, tungsten-iron, or bismuth, or No. 3 steel, or smaller may be used except at the Wayne Fitzgerald State Park and Eldon Hazlet State Park where only nontoxic shot approved by the U.S. Fish and Wildlife Service may be possessed and only shot shells with a shot size of No. 3 steel, or No. 5 bismuth or tungsten-iron, or smaller may be used. Flu flu arrows only may be used by bow and arrow hunters.
- h) Non-hunters are not allowed in the field.
- i) Hunters under 16 years of age must be accompanied by an adult hunter.
- j) Daily limits:
- 1) Two pheasants of either sex at Eldon Hazlet State Park, Iroquois County Conservation Area, Wayne Fitzgerald State Park, and the Des Plaines Conservation Area and Moraine View State Park.
 - 2) Two pheasants of either sex, 8 bobwhite quail and 4 rabbits at Sand Ridge.
 - 3) Two cock pheasants, 8 bobwhite quail and 4 rabbits at Site M.
 - 4) Four cock pheasants at the Lee County Conservation Area (Green River), and Silver Springs State Park.
 - 5) Four pheasants of either sex (except that on the last day of fee hunting, each hunter will be allowed to harvest 4 quail and 2 rabbits in addition to 4 pheasants) at Horseshoe Lake State Park (Madison County).
 - 6) Four pheasants of either sex, 8 bobwhite quail and 4 rabbits at Ramsey Lake State Park.
 - 7) The daily limit two cock pheasants at Chain O'Lakes State Park will be publicly announced.
 - 8) Two cock pheasants at Moraine View State Park.
- k) Tagging of birds.
- All pheasants must be affixed with a Department tag before they are removed from the area during the controlled pheasant hunting season. The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.
- l) Hunters may not leave the confines of any permit area and return to hunt on the permit area during the same day.
- m) Any person who violates any provision of this Part or 17 Ill. Adm. Code 510.10(c)(1), (4) and (6) or 510.10(d)(7) or Section 2.33(n), (x) or (z) of the Wildlife Code [520 ILCS 5/2.33(n), (x) or (z)] shall be subject to arrest and/or removal from the premises for the remainder of the controlled pheasant hunting season under applicable statutes including 720 ILCS 5/21-5, Criminal Trespass to State Supported Land. Hunters may request a hearing within ten days after of the citation by written request addressed to: Legal Division, Department of Natural Resources, 524 South Second Street, Springfield IL 62701-1787. Such hearing shall be governed by the provisions of 17 Ill. Adm. Code 2530.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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Section 530.90 Illinois Youth Pheasant Hunting Sites Permit Requirements

- a) Applicants must contact the Department to obtain a permit reservation ~~(except for Sangchris Lake and Edward R. Madigan State Fish and Wildlife Area)~~. Starting dates and methods for making reservations will be publicly announced. Only applications for reservations submitted by Illinois residents will be processed during the first two weeks of the application period. Reservations will be confirmed. Up to six reservations, but only one per applicant, may be made. Multiple reservations for the same person will not be accepted and that person will forfeit his right to acquire a reservation for the season. There is no fee for the youth pheasant hunting permit.
- b) Only one permit per person will be issued until the daily quota is filled. The daily quota is determined by the formula one hunter per 10 to 40 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available, the condition, topography, and configuration of the land at the site, the condition of the roads at the site, and the number of employees available to work at the site.
- c) The Springfield Permit Office cannot transfer or alter reservations to change hunting areas, dates or hunters' names. Permits cannot be transferred on the hunting areas. For other information (except Sangchris Lake and Edward R. Madigan State Fish and Wildlife Area) write to:
- Illinois Department of Natural Resources
Pheasant
524 South 2nd Street, Room 210
P.O. Box 19457
Springfield, Illinois 62794-9457
- d) Reservations for the Illinois Youth Pheasant Hunt will be issued from the Springfield Permit Office for Chain O'Lakes State Park, Des Plaines Conservation Area, Edward R. Madigan State Fish and Wildlife Area, Eldon Hazlet State Park (Carlyle Lake), Iroquois County Conservation Area, Moraine View State Recreation Park, Wayne Fitzgerald (Rend Lake) State Park, Richland County Controlled Pheasant Hunting Area, Lee County Conservation Area, Mackinaw River State Fish and Wildlife Area, and Horseshoe Lake State Park (Madison County), Sand Ridge State Forest, Sangchris Lake State Park and Site M (Controlled Area).
- e) ~~Permits for the Youth Hunt at Sangchris Lake State Park and Edward R. Madigan State Fish and Wildlife Area will be issued by a mail-in drawing at the respective site office. Registration procedures and hunter quota will be announced by public news release. Applicants must be between the ages of 10-15 inclusive. Permits available after~~

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~~the drawing will be allocated on a first-come-or-first-served basis from the site office.~~

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 530.100 Illinois Youth Pheasant Hunting Regulations

- a) The Illinois Youth Pheasant Hunt will be November 8, 1998 97--19977 except at the Richland County Controlled Pheasant Hunting Area where the hunt will be November 22, at Edward R. Madigan State Fish and Wildlife Area where the hunt will be November 7 97-1997 and at Mackinaw River State Fish & Wildlife Area where the hunt will be the first Saturday preceding the opening of the statewide upland game season.
- b) Hunting hours are from 9:00 a.m. to 4:00 p.m., except at Sangchris Lake hunting hours are from 12 noon to 4:00 p.m. Hunters with reservations or permits are required to check in at the check station between 7:00 a.m. and 8:00 a.m. (between 8:00 a.m. and 8:30 a.m. at Edward R. Madigan State Fish and Wildlife Area and between 10:00 11-00 a.m. and 10:30 a.m. 12-noon at Sangchris Lake State Park).
- c) All hunters must be between the ages of 10 and 15 inclusive and have a youth hunting permit. Stand-by permits will not be available except at Sangchris Lake and Edward R. Madigan State Fish and Wildlife Area.
- d) All hunters are required to deposit their hunting licenses in the check station while hunting. Each permit holder MUST be accompanied by a non-hunting supervisory adult. If the hunter does not have a valid Firearm Owner's Identification Card (FOID), the supervisory adult is required to have a valid FOID Card. Only one supervisory adult in a hunting party is required to have a valid FOID Card if the hunters in the hunting party stay under the immediate control (accompanying youth hunter at all times) of the supervisory adult possessing the valid FOID Card.
- e) Supervising adults are required to wear a cap and upper outer garment of solid and vivid blaze orange of at least 400 square inches. Hunters must wear a back patch issued by the check station.
- f) Anyone who has killed game previously and has it in his possession or in his vehicle must declare it with the person in charge of the area prior to hunting on the area. All previously killed game found in a hunter's possession after he has started hunting on the area will be considered illegally taken if the hunter has not declared it prior to going into the field.
- g) All hunting must be done with shotguns. Only shot shells with a shot size of No. 5 lead, tungsten-iron, or bismuth or No. 3 steel or smaller may be used, except at the Wayne Fitzgerald State Park where only shot shells approved as non-toxic by the U.S. Fish and Wildlife Service with a shot size of No. 3 steel, or No. 5 bismuth or tungsten-iron, shot or smaller may be used.

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h) Daily limit.

- 1) Two pheasants of either sex at Eldon Hazlet State Park, Iroquois County Conservation Area, Des Plaines Conservation Area, Richland County Controlled Pheasant Hunting Area, Wayne Fitzgerald State Park, Moraine-View-State-Park--and Horseshoe Lake State Park (Madison County) and Sand Ridge State Forest.
- 2) Two cock pheasants only at the Lee County Conservation Area, Moraine View State Park, Mackinaw River State Fish and Wildlife Area and Chain O'Lakes State Park.
- 3) Statewide Limits: Mackinaw--River--State--Fish--& Wildlife--Area--Sangchris Lake State Park, and Edward R. Madigan State Fish and Wildlife Area and Site M (Controlled Unit).
- i) All pheasants must be affixed with a Department tag before they are removed from the area (except Sangchris Lake, Edward R. Madigan State Fish and Wildlife Area and Mackinaw River State Fish & Wildlife Area). The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 530.105 Regulations for Fee Hunting of Pheasant, Hungarian Partridge, Quail and Rabbit at Controlled Daily Drawing Pheasant Hunting Sites

- a) All the regulations in 17 Ill. Adm. Code 510 - General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) All areas are closed to fee upland game hunting Mondays and Tuesdays, Christmas Day and New Year's Day. With authorization from the Director, controlled pheasant hunting may be scheduled on Monday or Tuesday on DNR operated areas.
- c) Hunting hours are 9:00 a.m. to 4:00 p.m. (except on Thanksgiving Day hunting hours are 9:00 a.m. to 1:00 p.m. at Kankakee River State Park).
- d) All hunting must be done with shotgun or bow and arrow. Only shot shells with a shot size of No. 5 lead, tungsten-iron or bismuth or No. 3 steel, or smaller may be used. Flu flu arrows only may be used by bow and arrow hunters.
- e) All pheasants must be affixed with a Department tag before they are removed from the area. The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.
- f) Hunter quota selection, daily usage stamp requirements and exemptions and hunter age requirements:
 - 1) A drawing shall be held at the site for hunter quotas.
 - 2) A daily usage stamp is required prior to hunting opening date through the day following the final game bird release.
 - 3) Hunters under 16 are not required to obtain a daily usage stamp at Johnson Sauk Trail State Park, Kankakee River State Park and

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the Washington County Conservation Area on November 29 30 and December 26 27.

- 4) Hunters under 16 years of age must be accompanied by an adult hunter.

- 5) At the Richland County Controlled Pheasant Hunting Area a daily usage stamp is not required. Fees and methods of payment at this site will be publicly announced.

- g) When daily quotas are not filled, hunters are allowed to check in on a first come-first served basis until 12:00 noon.

- h) The Department shall publicly announce the registration time and quota to be filled.

- i) Hunters are required to deposit their hunting license in the check station while hunting. Persons exempt by law from having a hunting license must deposit their Firearm Owner's Identification Card. If they are under 21 years old and do not have a card they must be accompanied by a parent, legal guardian or a person in loco parentis who has a valid card in possession.

- j) A back patch issued at the check station must be worn while hunting.

- k) Non-hunters are not allowed in the field.

- l) Hunters must not leave the site without first checking out.

- m) Daily Limit:

Pheasant - 2 (either sex may be harvested)

Bobwhite Quail - 8

Hungarian Partridge - 2

Rabbit - 4

- n) Statewide regulations as provided for in this Part apply at the following Controlled Daily Drawing Pheasant Hunting sites, except as noted above and in parentheses below:

Johnson-Sauk Trail State Park

~~Midwin-National-Tail-Grass-Prairie-(Gillet-Army-Ammunition Plant--Will-County)-(a-\$5-00-daily-usage-fee-will-be-charged--no hen-pheasants--may-be-harvested--site-is-closed-during-site's firearm-deer-season--pheasants-will-not-be-tagged)~~

Kankakee River State Park (Hunters must check out within 15 minutes of the close of hunting hours; quail shall not be harvested)

Richland County Controlled Pheasant Hunting Area (the controlled pheasant hunting season will be publicly announced; daily limit 4 pheasants of either sex only)

Washington County Conservation Area

- o) Any person who violates any provision of this Part or 17 Ill. Adm. Code 510.10(c)(1), (4) and (6) or 510.10(d)(7) or Section 2.33(n), (x)

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or (z) the Wildlife Code [520 ILCS 5/2.33(n), (x) or (z)] shall be subject to arrest and/or removal from the premises for the remainder of the controlled pheasant hunting season under applicable statutes including 720 ILCS 5/21-5, Criminal Trespass to State Supported Land. Hunters may request a hearing within ten days of the citation by written request addressed to: Legal Division, Department of Natural Resources, 524 South Second Street, Springfield IL 62701-1787. Such hearing shall be governed by the provisions of 17 Ill. Adm. Code 2530.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 530.110 Regulations for Non-Fee Hunting of Cock Pheasant, Hungarian Partridge, Quail, and Rabbit at Various Department-Owned or -Managed Sites

a) General Site Regulations

- 1) All regulations in 17 Ill. Adm. Code 510 -- General Hunting and Trapping -- apply in this Section, unless this Section is more restrictive.

- 2) Only flu arrows may be used by bow and arrow hunters; broadheads are not allowed.

- 3) On sites which are indicated by (1), hunters must check in and/or sign out as provided for in 17 Ill. Adm. Code 510.

- 4) On sites which are indicated by (2), only nontoxic shot approved by the U.S. Fish and Wildlife Service of size No. 3 steel or No. 5 bismuth shot or smaller may be used or possessed.

- 5) Site specific rules or exceptions are noted in parentheses after each site.

b) Site Specific Regulations

- 1) Statewide regulations apply at the following sites:

Anderson Lake Conservation Area (1)

Apple River Canyon State Park - Salem and Thompson Units
(rabbits only; closed during firearm deer season) (1)

Argyle Lake State Park (closed during firearm deer season) (1)

Banner Marsh State Fish and Wildlife Area (opens the day after the close of the central zone duck season) (1)

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (closed during firearm deer season) (1)

Cache River State Natural Area (1)

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Campbell Pond Wildlife Management Area

Carlyle Lake Lands and Waters (Corps of Engineers Managed Lands)

Carlyle Lake Wildlife Management Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season)

Chain O'Lakes State Park (open Wednesday after controlled pheasant hunting season for 5 consecutive days, closed December 25; hunting hours 8 a.m. - 4 p.m.) (1)

Crawford County Conservation Area (1)

Cypress Pond State Natural Area (1)

Dog Island Wildlife Management Area (1)

Eldon Hazlet State Park (north of Allen Branch and west of Peppenhorst Branch only) (1)

Fern Clyffe State Park (1)

Fort de Chartres Historic Site (hunting with muzzleloading shotgun or bow and arrow only) (1)

Ft. Massac State Park (1)

Giant City State Park (1)

Green River State Wildlife Area (closed until the end of the site's controlled pheasant season, except quail and rabbit only can be hunted on Mondays and Tuesdays during the site's controlled pheasant season) (1)

Hamilton County Conservation Area (8:00 a.m. - 4:00 p.m.) (1)

Horseshoe Lake Conservation Area (Alexander County) (Public Hunting Area, except Controlled Hunting Area) (1)

I-24 Wildlife Management Area (1)

Jubilee College State Park (opens second day of statewide season; pheasant and quail close the Sunday after Thanksgiving) (1)

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Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season) (1)

Kadd-Lake-State-Natural-Area

Kinkaid Kincaid Lake Fish and Wildlife Area (1)

Mackinaw Fish and Wildlife Area (8:00 a.m. - 4:00 p.m.; opens--second-day-of-statewide-season; closed during firearm deer season; pheasant and quail close the Sunday after Thanksgiving) (1)

Marseilles Wildlife (closed during the site's firearm deer season) (1)

Marshall Fish and Wildlife Area (closed during firearm deer season) (1)

Mazonia State Fish and Wildlife Area (upland season does not open until the day after the close of the site's waterfowl season; the site is closed Mondays, Tuesdays, Christmas Day and New Year's Day) (1)

Mermet Lake Fish and Wildlife Area (1)

Mississippi River Pools 16, 17, 18

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 21, 22, 24

Mt. Vernon Game Propagation Center (hunting from January 1 to the end of season; rabbits only) (1)

Oakford Conservation Area

Panther Creek Conservation Area (1)

Peabody River King State Fish and Wildlife Area (West Subunit only) (1)

Pyramid State Park (1)

Ramsey Lake State Park (8:00 a.m. to 4:00 p.m.; rabbits and quail only may be hunted on Mondays and Tuesdays during the fee pheasant season) (1)

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Randolph County Conservation Area (1)

Ray Norbut State Fish and Wildlife Area (~~all hunting--closes November--30--in--Area--A~~ all hunting closes December 15 in Eagle Roost Area Area-6)(1)

Red Hills State Park (8:00 a.m. - 4:00 p.m.) (1)

Rend Lake Project Lands and Waters

Saline County Conservation Area (1)

Sam Dale Lake Conservation Area (8:00 a.m. to 4:00 p.m.) (1)

Sam Parr State Park (8:00 a.m. to 4:00 p.m.) (1)

Sangamon County Conservation Area

Sanganois State Fish and Wildlife Area

Shawnee National Forest, Oakwood Bottoms (2)

Snake Den Hollow Fish and Wildlife Area (opens the day after the close of the Central Illinois Quota Patten-Knox--County zone goose season) (1)

Stephen A. Forbes State Park (8:00 a.m. to 4:00 p.m.) (1)

Tapley Woods State Natural Area (closed during firearm and muzzleloading rifle deer seasons) (1)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County Conservation Area (Firing Line Management Area only) (1)

Weinberg-King State Park (1)

Wildcat Hollow State Forest

Witkowsky State Wildlife Area (rabbit only; opens after second firearm deer season) (1)

2) Statewide regulations apply at the following sites except that hunters must obtain a free site permit from site office; this permit must be in possession while hunting at the site. The

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permit must be returned, and harvest reported, by February 15 or the hunter will forfeit hunting privileges at the site for the following year:

Chauncey Marsh (obtain permit at Red Hills State Park headquarters)

Clinton Lake State Recreation Area (4:00 p.m. daily closing)

Fox Ridge State Park (4:00 p.m. daily closing)

Hidden Springs State Forest (no hunting during firearm deer season; 4:00 p.m. daily closing)

Kickapoo State Park (4:00 p.m. daily closing; closed during firearm deer season)

~~Lake-Sheibyville--Eagle-Creek-State-Park--(4:00-p.m.--daily-closing)~~

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Area (4:00 p.m. daily closing)

Middle Fork Fish and Wildlife Area (4:00 p.m. daily closing; closed during firearm deer season)

Moraine View State Park (rabbit hunting permitted Mondays and Tuesdays during the site controlled hunting program and from Wednesday after the permit pheasant season until the end of the Northern Zone Rabbit Season. Quail and pheasant hunting are permitted Wednesday through Sunday following the permit pheasant season; 2 cock pheasants ~~of-either-sex~~ may be taken; but-hens-must-be-tagged-by-site-staff. All hunting is 8 a.m. to 4 p.m. only.)

Newton Lake Fish and Wildlife Area (closed during firearm deer season)

Site M (open unit)

Ten Mile Creek State Fish and Wildlife Area (non-toxic shot only on posted waterfowl rest areas)

3) Hunting is permitted on the following areas only on the dates listed in parentheses; daily hunting permits filled by drawing through DOC Permit Office. Procedures for application and drawings will be publicly announced. Only one permit per person will be issued for each site. Each permit authorizes the holder to bring the number of additional hunting partners listed in

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parentheses for the day's hunt. The permit must be returned and harvest reported by February 15 or hunters will forfeit hunting privileges at the site for the following year:

Eagle Creek State Park (open only November 7, 8, 11, 14, 18, 21, 25, 28 and December 3, 6, 10, 13, 17, 20, 24)

East Conant (open only November 7, 10, 12, 15, 18, 21, 23, 27, 29 17-3-67-97-127-157-187-247-27-30 and December 1, 7, 10, 13, 16, 19, 22, 26, 29 37-107-167-207-237-26 and January 2, 5, 8, 11, 15; each permit authorizes the holder to bring 3 hunting partners)

Edward R. Madigan State Fish and Wildlife Area (open only November 9, 16, 23, 30 107-177-25 and December 7, 14, 21 17--07 157--22; each permit authorizes the holder to bring 3 hunting partners; check in required before hunting)

Freeman Mine (open only November 4, 11, 18, 25 and December 2, 9, 16, 23, 30; each permit authorizes holder to bring 3 hunting partners; hunting hours 8 a.m. to 4 p.m.; daily bag limit is 2 cock pheasants, 4 quail, and 2 rabbits)

Hallsville Habitat Area (open only November 7, 8, 11, 14, 18, 21, 25, 28 17-27-57-87-117-147-177-227-267-29 and December 3, 6, 10, 13, 17, 20, 24 47-77-117-147-187-217-24; each permit authorizes the holder to bring 3 hunting partners)

Harry "Babe" Woodward State Natural Area (open only November 7, 8, 11, 14, 18, 25, 28 and December 10, 13, 17, 20, 24; each permit authorizes the holder to bring 3 hunting partners; 8 a.m. to 4 p.m. hunting hours)

Herschel Workman Habitat Area (open only November 7, 8, 11, 14, 18, 21, 25, 28 17-27-57-87-117-147-177-227-267-29 and December 3, 6, 10, 13, 17, 20, 24 47-77-117-147-187-217-24; each permit authorizes the holder to bring 3 hunting partners)

Little--Vermiton-River-State-Natural-Area-(open-only-November-17 27-57-87-117-147-177-227-267-29-and-December-11-14-18-21-24--each permit-authorizes-the-holder-to-bring-3-hunting-partners;8-a-m-to-4-p-m--hunting-hours)

Manito Habitat Area (open only November 7, 8, 11, 14, 18, 21, 25, 28 and December 3, 6, 10, 13, 17, 20, 24; each permit authorizes the holder to bring three hunting partners)

Perdueville Habitat Area (open only November 7, 8, 11, 14, 18, 21, 25, 28 17-27-57-87-117-147-177-227-267-29 and December 3, 6, 10, 13, 17, 20, 24 47-77-117-147-187-217-24; each permit authorizes the holder to bring 3 hunting partners)

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10, 13, 17, 20, 24 47--77--117--147--187--217--24; each permit authorizes the holder to bring 3 hunting partners)

Sand Prairie Habitat Area (open only November 7, 8, 11, 14, 18, 21, 25, 28 17-27-57-87-117-147-177-227-267-29 and December 3, 6, 10, 13, 17, 20, 24 47-77-117-147-187-217-24; each permit authorizes the holder to bring 5 hunting partners)

Sand Ridge State Forest (Mud Turtle State Natural Area) (open only November 7, 10, 14, 17, 24, 28 07-117-157-187-257-29 and December 1, 8, 12, 15, 19, 22, 26, 29 27-97-137-167-207--237--27 30; each permit authorizes holder to bring 3 hunting partners)

Sangchris Lake State Park (open only November 14, 18, 25, 28 157 197-227-267-29 and December 2, 9, 12, 16, 19, 23, 26 37--67--107 137--167--207--237--27; each permit authorizes holder to bring 3 hunting partners; hunting hours 1 p.m. to 12--noon--sunset; check in required before hunting; December dates are for rabbits only)

Sato Field (open only November 7, 10, 13, 17, 23, 26, 29 and 17 47-07-117-137-167-197-257-29; December 6, 8, 13, 16, 19, 23, 27, 30 17-07-117-187-217-27; and-January-17-47-77-107-157 each permit authorizes the holder to bring 3 hunting partners)

Saybrook Habitat Area (McLean County) (open only November 7, 8, 11, 14, 18, 21, 25, 28 17-27-57-87-117-147-177-227--267--29 and December 3, 6, 10, 13, 17, 20, 24 47-77-117-147-187-217-24; each permit authorizes the holder to bring 3 hunting partners)

Site M (Quail Management Area) (open only November 7, 10, 14, 17, 24, 28 47-07-117-157-187-257-29 and December 1, 8, 12, 15, 19, 22, 26, 29 27-97-137-167-207-237-277-30 and January 2, 5, 9, 12 37-67-107-137; each permit authorizes holder to bring 3 hunting partners)

Steward Habitat Area (open only November 7, 8, 11, 14, 18, 21, 25, 28 17-27-57-87-117-147-177-227-267-29 and December 3, 6, 10, 13, 17, 20, 24 47-77-117-147-187-217-24; each permit authorizes the holder to bring 3 hunting partners)

Victoria Habitat Area (open only November 7, 8, 11, 14, 18, 21, 25, 28 17-27-57-87-117-147-177-227-267-29 and December 3, 6, 10, 13, 17, 20, 24 47-77-117-147-187-217-24; each permit authorizes the holder to bring 3 hunting partners)

Wolf Creek State Park (open only November 7, 8, 11, 14, 18, 25, 28, and December 10, 13, 17, 20, 24)

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- 4) The following sites will be open for pheasant, quail, rabbit and partridge hunting following the site's controlled pheasant hunting season; pheasants of either sex may be taken; all hen pheasants must be tagged by DNR before leaving sites; hunting hours are 8:00 a.m. - 4:00 p.m.; hunting dates are noted in parentheses:

~~Chain--Oakes--State--Park--(open--Wednesday--after--controlled pheasant--hunting--season--for-5-consecutive-days--closed-December 25)--(1)~~

Des Plaines Conservation Area (dates are 5 days following the close of the site's permit pheasant season excluding Mondays, Tuesdays and Christmas) (1)

Eldon Hazlet State Park (controlled pheasant hunting area and for 5 consecutive days only) (1)

Iroquois County Wildlife Management Area (open Wednesday through Sunday following permit pheasant season) (1)

Johnson-Sauk Trail State Park (open Wednesday through Sunday following permit pheasant season)

Kankakee River State Park (no quail hunting)

Washington County Conservation Area (1)

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Duck, Goose and Coot Hunting
- 2) Code Citation: 17 Ill. Adm. Code 590
- 3) Section Numbers:
590.10 Amendments
590.15 Amendments
590.20 Amendments
590.40 Amendments
590.50 Amendments
590.60 Amendments
590.80 Amendments
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20, effective September 26, 1990).
- 5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part are needed to change statewide hunting regulations, open and close state-owned or -managed sites to the waterfowl seasons and change regulations and application procedures on the sites.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:
- 12) Initial Regulatory Flexibility Analysis:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield, IL 62701-1787
217/782-1809

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A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 590

DUCK, GOOSE AND COOT HUNTING

Section

590.10 Statewide Regulations

590.15 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed sites Listed in Sections 590.40 and 590.50

590.20 Permit Controlled Department Sites Only - Duck, Goose and Coot Hunting

590.25 Illinois Youth Waterfowl Hunting Permit Requirements

590.26 Illinois Youth Duck Hunting Permit Requirements (Repealed)

590.30 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and-Managed Sites (Repealed)

590.40 Check Station Department Sites Only - Duck, Goose and Coot Hunting

590.50 Non-Check Station Department Sites Only - Duck, Goose and Coot Hunting

590.60 Various Other Department Sites - Duck, Goose and Coot Hunting

590.70 Ohio River

590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites

EXHIBIT A The Non-Toxic Shot Zones of Illinois (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20, effective September 26, 1990).

SOURCE: Adopted at 5 Ill. Reg. 8857, effective August 25, 1981; emergency amendment at 5 Ill. Reg. 11386, effective October 14, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10638; Part repealed at 6 Ill. Reg. 9647, effective July 21, 1982; new Part adopted at 6 Ill. Reg. 11865, effective September 22, 1982; amended at 7 Ill. Reg. 13229, effective September 28, 1983; emergency amendment at 7 Ill. Reg. 13948, effective October 6, 1983, for a maximum of 150 days; emergency expired March 3, 1984; amended at 8 Ill. Reg. 18968, effective September 26, 1984; amended at 9 Ill. Reg. 14242, effective September 5, 1985; peremptory amendment at 9 Ill. Reg. 15062, effective September 25, 1985; emergency amendment at 9 Ill. Reg. 15928, effective October 8, 1985, for a maximum of 150 days; emergency expired March 5, 1986; amended at 10 Ill. Reg. 16588, effective September 22, 1986; emergency amendment at 10 Ill. Reg. 17773, effective September 26, 1986, for a maximum of 150 days; emergency expired February 23, 1987; amended at 11 Ill. Reg. 10560, effective May 21, 1987; emergency amendment at 11 Ill. Reg. 15242, effective August 28, 1987, for a maximum of 150 days; emergency expired January 25, 1988; amended at 12 Ill. Reg. 12200, effective July 15, 1988; emergency amendment at 12 Ill.

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Reg. 16233, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; emergency amendment at 12 Ill. Reg. 22244, effective December 7, 1988, for a maximum of 150 days; emergency expired May 6, 1989; amended at 13 Ill. Reg. 10525, effective June 20, 1989; amended at 13 Ill. Reg. 14925, effective September 7, 1989; emergency amendment at 13 Ill. Reg. 16579, effective October 4, 1989, for a maximum of 150 days; emergency expired March 3, 1989; amended at 13 Ill. Reg. 17354, effective October 27, 1989; amended at 14 Ill. Reg. 638, effective January 2, 1990; amended at 14 Ill. Reg. 13529, effective August 13, 1990; emergency amendment at 14 Ill. Reg. 17029, effective September 26, 1990, for a maximum of 150 days; emergency expired February 23, 1991; amended at 15 Ill. Reg. 1487, effective January 22, 1991; amended at 15 Ill. Reg. 13293, effective September 3, 1991; emergency amendment at 15 Ill. Reg. 16745, effective November 5, 1991, for a maximum of 150 days; emergency expired April 3, 1992; amended at 16 Ill. Reg. 570, effective December 31, 1991; amended at 16 Ill. Reg. 12491, effective July 28, 1992; emergency amendment at 16 Ill. Reg. 16672, effective October 15, 1992, for a maximum of 150 days; emergency expired March 9, 1993; emergency amendment at 16 Ill. Reg. 18851, effective November 17, 1992, for a maximum of 150 days; emergency expired April 11, 1993; emergency amendment at 17 Ill. Reg. 1658, effective January 20, 1993, for a maximum of 150 days; emergency expired June 14, 1993; amended at 17 Ill. Reg. 16443, effective September 27, 1993; emergency amendment at 17 Ill. Reg. 18867, effective October 14, 1993, for a maximum of 150 days; emergency expired March 13, 1994; amended at 18 Ill. Reg. 15161, effective June 21, 1994; emergency amendment at 18 Ill. Reg. 15161, effective September 27, 1994, for a maximum of 150 days; emergency expired February 23, 1995; amended at 19 Ill. Reg. 13209, effective September 11, 1995; amended at 20 Ill. Reg. 754, effective December 29, 1995; recodified by changing agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12417, effective August 30, 1996; amended at 21 Ill. Reg. 578, effective December 30, 1996; amended at 21 Ill. Reg. 11713, effective August 12, 1997; amended at 22 Ill. Reg. 2182, effective January 2, 1998; amended at 22 Ill. Reg. _____, effective _____.

Section 590.10 Statewide Regulations

- a) Pursuant to Section 2.18 of the Wildlife Code [520 ILCS 5/2.18], it shall be unlawful to take, possess, transport, or use migratory waterfowl except during such period of time and in such manner and numbers as may be provided in the Federal "Migratory Bird Treaty Act" (16 U.S.C. 703-711), the "Migratory Bird Hunting Stamp Act" (16 U.S.C. 1718 et seq.), and annual "Rules and Regulations for Migratory Bird Hunting" (50 CFR 20) (collectively referred to in this Part as federal regulations) (no incorporation in this Part includes later amendments or editions), or contrary to any State regulations made in the Wildlife Code.
- b) The regulations in Section 2.33 of the Wildlife Code on illegal devices shall apply to this rule, unless federal regulations are mor-

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- c) Duck, goose and coot regulations are in accordance with Federal Regulations (50 CFR 20) unless the regulations in this Part rule are more restrictive.
- d) It shall be unlawful while attempting to take migratory waterfowl or coots to have in possession any shotgun shells not approved as non-toxic by federal regulations.
- e) It shall be unlawful to possess any shotgun shell loaded with a shot size larger than bismuth BB, tungsten-iron BB, or tungsten-polymer BB when attempting to take waterfowl.
- f) ~~Emergency Closure~~
The Department of Natural Resources (Department or DNR) will close the Canada goose season giving 48 hours notice when quotas established by federal regulations are reached, when harvest in any area is excessive due to extreme weather conditions or when a serious outbreak of infectious disease occurs, such as avian cholera or duck virus enteritis.
- g) ~~Closed Areas~~
Closed areas, including waterfowl refuges and rest areas, may be designated at certain sites in accordance with 17 Ill. Adm. Code 510. Boundaries of these closed areas will be posted.
- h) ~~Commercial Migratory Waterfowl Hunting Area Permits~~
1) The holder of a permit shall forward information on harvest and hunters to the Department, on forms furnished by the Department, at times required by the Department. The Department shall give the permit holder reasonable written notice of the dates reports are required. Failure to timely supply such reports will make the permit holder subject to revocation of his permit and suspension of the privilege to hold the permit for up to 5 years.
- 2) On any property where the principal waterfowl harvest is wild geese, it is the permit holder's duty to ensure that not more than 5 persons occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season.
- 3) The Department may assign the maximum potential Canada goose harvest (number registered pits x 5 hunters x Canada goose bag limit) to the cumulative quota zone harvest for each day a club is late in reporting.
- i) ~~Waterfowl Hunting Zones:~~
1) ~~North Northern Zone~~ - That portion of the State north of a line running east from the Iowa border along Illinois Route 92 to U.S. Interstate 280, east along U.S. Interstate 280 to U.S. Interstate 80, then east along U.S. Interstate 80 to the Indiana border.
- 2) ~~Northern Illinois Quota Zone~~ - Dupage, Kane, Lake, and McHenry counties, and those portions of LaSalle and Will counties north of I-80.
- 3) ~~Central Zone~~ - That portion of the State south of the northern zone boundary to the Modoc Ferry route on the Mississippi River and east along the Modoc Ferry Road to Modoc Road to St. Leo's

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Road to Illinois Route 3, then north to Illinois Route 159, then north to Illinois Route 161, then east to Illinois Route 4, then north to U.S. Interstate 70, then east along U.S. Interstate 70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to U.S. Interstate 70, then east along U.S. Interstate 70 to the Indiana border.

4) Central Illinois Quota Zone - Calhoun, Cass, Fulton, Jersey, Knox, Mason, Morgan, Peoria, Pike, Tazewell, and Woodford counties, as well as those portions of LaSalle, Grundy, and Will counties south of I-80.

5) South Southern Zone - From the southern boundary of the Central Zone south to the remainder of the State.

6) Fulton-Knox-County-Canada-Goose-Reserve-Knox-County-and-the following townships--in--Fulton-County--Buckheart--Ganton--Cass--Deerfield--Fairview--Farmington--Joshua--Orton--Putnam--and that portion of Banner Township bounded on the north by Illinois Route-9 and on the east by U.S. Route-24.

6) Rend Lake Canada-Goose Quota Zone - all lands and waters in Franklin and Jefferson Counties.

7) Northeastern Illinois Canada Goose Zone - All lands and waters in the counties of Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry and Will.

8) Southern Illinois Quota Zone - Alexander, Union, Williamson, and Jackson Counties.

1) No person during the open season shall take or attempt to take wild geese in the Rend Lake Canada Goose Quota Zone and Southern Illinois Quota Zone except between legal opening and the hour of 3:00 p.m. except during the last three days of the Canada goose season and during any goose seasons that occur after the Canada goose season, hunting hours shall close at sunset daily.

2) On any property where the principal waterfowl harvest is wild geese in the Rend Lake Canada-Goose Quota Zone and the Southern Illinois Quota Zone, no more than 5 persons shall occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season.

3) The following apply in the Northern and Central Illinois Quota Zones:

1) It is unlawful to hunt Canada geese during seasons starting after September 15 without having in possession a current season's permit to hunt Canada geese, unless exempt from a State waterfowl stamp. Such permits are not transferrable and are not valid unless they contain the hunter's name, signature, date of birth, and the same State waterfowl stamp number that is on the State waterfowl stamp that is signed by the hunter or affixed to his/her license.

2) Immediately upon taking possession of a harvested Canada goose, hunters must mark with indelible ink, punch or slit the Permit to

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Hunt to indicate the date of kill (one date for each goose harvested) and zone where killed.

3) Hunters must report their kill within 24 hours by calling 1-800-WETLAND (938-5263). Hunters must report the number of geese taken, date and zone where taken.

4) Registration in the U.S. Fish and Wildlife Service Migratory Bird Harvest Information Program (HIP) is required for those persons who are required to have a hunting license before taking or attempting to take ducks, geese or coots. Instructions for registering are provided with issuance of hunting license.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 590.15 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed Sites Listed in 590.40 and 590.50

a) Definitions

1) Blind site - A position within 10 feet of numbered stake where blind must be constructed. Sites shall be located and marked by the Department of Natural Resources.

2) Blind builder - Person who has been assigned a blind site as a result of the drawing.

3) Blind partner - Persons ~~Persons~~ chosen by the builder to assist in construction and maintenance of the blind and to share its blind claiming and hunting privileges.

4) Drawing - Procedure by which blind sites are assigned.

5) Blind registration card - Card issued by the Department and tacked inside each blind listing names and addresses of blind builders.

6) Complete blind - A blind with all framework and siding constructed and in readiness for use, including final brushing.

7) Hunting party - An individual or group of hunters occupying a single boat, blind, or hunting site.

8) Dog Hide - A compartment or area within or attached to a blind that houses a dog used to retrieve downed waterfowl.

b) Blind Construction

1) Blinds must be at least 4 feet x 8 feet, but no higher than 14 feet from the water surface at normal pool level, to the top of the shooting box, sturdy enough to withstand daily usage, and must be maintained in good condition by blind builders throughout the duck season. Blinds shall be numbered and that number shall be visible from the outside of the blinds. Blinds must be placed within 10 feet of assigned Department marked site.

2) Blinds built over water must be of platform construction with the platform constructed above normal water conditions or they may be floating blinds.

3) Blinds must be completed, including final brushing, 3 weeks in

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advance of opening date of regular duck season (except at Mississippi River Area Pools 25 and 26 blinds and final brushing must be completed 4 weeks' in advance of opening date of regular duck season) after which time the Department of Natural Resources shall inspect all blinds and blind sites and issue Blind Registration Cards to those which pass inspection. Blind builders shall not gain access to Redwing Slough/Deer Lake until the day following Labor Day. Blind builders must post Blind Registration Card in the blind prior to the first day of regular duck season. If adverse weather or water conditions make compliance with this rule difficult the site superintendent or the District Wildlife Manager may grant extensions.

- 4) Sites on which blinds have not been built, as well as sites on which blinds of an unsatisfactory quality have been built, shall be reassigned to alternates selected at a drawing or by a first come-first served allocation held on a day publicly announced by the Department. All reassigned blinds must be completed, including final brushing, seven days prior to the opening date of the duck season on sites posted as being closed to trespassing 7 days prior to regular duck season. At Mississippi River Area Pools 25 and 26 reassigned blinds must be completed by sunset of the Sunday immediately preceding the opening day of regular duck season. On all other sites reassigned blinds must be completed, including final brushing, by the day before the opening day of the regular duck season.

- 5) Not more than 3 persons shall be registered for assignment of any one blind site. Blind builders shall submit partner names on a blind registration form as designated at the site drawing. After the designated time, no changes shall be accepted. As directed by the information sheet available at each site, the registration form must be filled out and returned within 30 days of the blind drawing date. Failure to do so shall result in forfeiture of blind.

- 6) No person shall be allowed to be a blind builder or partner on more than one State Waterfowl Management Area in Illinois.

- 7) Boat hides are required, except as noted in Sections 590.40 and 590.50, and must have minimum inside dimensions of 18' x 6', and shall be sturdy enough to withstand daily use considering the conditions of the site, and must be maintained in good condition throughout the season, and shall be completed including final brushing by three weeks prior to the opening day of duck season, except at Mississippi River Area Pools 25 and 26 boat hides and final brushing must be completed 4 weeks prior to the opening day of duck season; failure to meet these standards shall result in forfeiture of blind site.

- 8) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds except as indicated in Sections 590.40(a) and (b) and

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- 9) 590.50(a) and (b).
Blinds must include a dog hide that is on the same level as the blind. The dog hide can either be incorporated into the blind by providing a hole at floor level that measures at least 20 inches high by 20 inches wide or by providing a separate compartment that is attached to the blind. Hides attached to the blind should have a minimum floor space that measures 2 feet by 2 feet and should be at least 2.5 feet high with two openings. One opening should be between the blind and the dog hide, should measure at least 20 inches by 20 inches, and should be constructed at the same level as the blind floor. The water access opening should be at least 20 inches wide and 20 inches high. Hides either within the blind or attached should have an enforced ramp to water level that is at least 15 inches wide with cleats every 12 inches. Openings in the blind must be capable of being closed when not in use.

c) Use of blinds

- 1) Attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest. The insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind.
2) No person shall hunt, or attempt to hunt, except from within a registered blind.
3) Persons under 16 years of age shall not hunt, or attempt to hunt, unless accompanied by an adult due to safety factors.

- 4) Blinds shall not be locked.

- 5) Claiming or attempting to claim any blind which is legally occupied, and/or harassing, in any manner, the occupants of a blind which has been legally occupied, is unlawful.

- 6) No person shall fish within 250 yards of an occupied blind within the hunting area.

- 7) All hunting parties shall hunt over a spread of at least 12 decoys during duck season and Canada goose season. The decoys shall be staked, placed, or floating, be individually visible, be at least 8 inches long, and not be within a boat, blind or container.

- 8) At sites where a manned check station is in operation, hunters are required to deposit their hunting license and Federal and State Migratory Waterfowl Stamp in the check station while hunting. Persons exempt by law from having a hunting license and an Illinois stamp must deposit their Firearm Owner's Identification Card. Persons under 21 who do not have a card must be accompanied by an adult who has a valid card in his possession.

d) Public Drawing

- 1) Time and place for all sites holding drawings shall be publicly announced by the Department of Natural Resources.

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- 2) A registrant for a drawing must be at least 16 years of age and possess a current or preceding year's Illinois hunting license, a current or preceding year's Illinois Migratory Waterfowl Stamp and a current or expired (within 12 months prior to the drawing) Firearm Owner's Identification Card unless exempted by law. Persons exempted by law from possessing a hunting license or waterfowl stamp must have a valid Firearm Owner's Identification Card. Persons who are under 21 years of age who do not have a Firearm Owner's Identification Card must be accompanied by an adult who has a valid Firearm Owner's Identification Card in his possession at the drawing. Applicants must be present for the registration and drawing to be eligible for allocation of blind sites.

e) Flood Rules

In the event that State managed sites are flooded to the point that public waterfowl blinds cannot be constructed or are no longer usable, the Department, by public announcement and/or posting, may permit waterfowl hunting under one of the following rules:

- 1) If the check station for that site is open, all rules apply, except that hunting will be allowed from boat, platform or floating blinds which must be located within 10 feet of the marked blind site.
- 2) If the check station is not operable, all rules apply except that hunting will be allowed from boat, platform or floating blinds which must be located within 10 feet of the marked blind site. Additionally, rules listed in Section 590.40(b)(1), (2), (3), (4) and (9) shall not be in force. Rules concerning blind claiming as listed in Section 590.50(b) shall apply.
- 3) If blind sites have not been marked and no check station is operable, the area will be open to hunting from platform, floating or boat blinds or by walk-in hunting, anywhere on the area except refuges and closed waterfowl rest areas. Replacement of unattended decoys and/or unoccupied blinds or boat hides do not constitute lawful possession of a hunting site. All hunting parties must remain 200 yards apart and follow normal closing hours for the site.
- 4) In all above flood circumstances, regulations requiring the construction of a separate boat hide and regulations regarding the minimum standards for blind construction shall be suspended for that season.

f) Special Hunts

If, by regulation published in the Federal Register, the U.S. Fish and Wildlife Service sets any special dates for youth-only waterfowl hunting, the Department shall, by public announcement, open those Department sites which, under the circumstances prevailing at the time, the Department believes may be opened without unduly disturbing other Department programs.

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(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 590.20 Permit Controlled Department Sites Only - Duck, Goose and Coot Hunting

- a) Sites covered in this Section, which allow hunting by permit only, are:

Banner Marsh Fish and Wildlife Area (for the 1998-1999 1997-1998 season, permits will be issued through random daily drawings at the site at 5:00 a.m. and the permit requirements in subsections (b)(1) and (b)(5) do not apply)

Snake Den Hollow State Fish and Wildlife Area

Union County Conservation Area

b) Permit Requirements

- 1) Permit reservations shall be accepted starting in September. Initial acceptance dates and methods for making reservations will be publicly announced. Only applications for reservations submitted by Illinois residents will be processed during the first two weeks of the application period. Applicants making reservations will be sent confirmation.
- 2) Permits shall be issued until the daily quota is filled. The daily quota is determined by the formula: one hunter per 10 to 40 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available; the condition, topography, and configuration of the land at the site; the condition of the roads at the site; the number of employees available to work at the site; and the number of blinds which can be established on a site as set forth in Section 3.8 of the Wildlife Code (520 ICS 5/3.8).
- 3) The permit shall be for the use of the entire blind. It shall be the responsibility of the permit holder to bring one partner (two persons per blind) for Snake Den Hollow State Fish and Wildlife Area and Union County, or three partners (four persons per blind) for Banner Marsh. Unfilled blinds shall be filled by a drawing at the sites.
- 4) Permits are not transferrable.
- 5) Permits will be issued from the Springfield Permit Office for permit-controlled sites. For other information write to:

Illinois Department of Natural Resources
Permit Office - Waterfowl
P.O. Box 19457
Springfield, IL 62794-9457

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c) General regulations

- 1) All use other than permit hunting is prohibited at Snake Den Hollow from October 1 through close of Fulton-Knox County goose season.
- 2) Hours, Permits and Stamp Charges
 - A) Hunting hours are from legal opening time until 1:00 p.m.
 - B) At Snake Den Hollow from opening day through December 14, hunters with permit reservations are required to check in at the check station between 4:30 a.m. and 5:00 a.m. Permits are void after 5:00 a.m. From December 15 through the close of goose seasons, hunters with permit reservations are required to check in at the check station between 5:00 a.m. and 5:30 a.m. Permits are void after 5:30 a.m. At Union County Conservation Area hunters with permit reservations are required to check in at the check station between 4:30 a.m. and 5:00 a.m. Permits are void after 5:00 a.m. A drawing shall be held to allocate blind sites at all sites. At Union County Conservation Area, hunters with permit reservations from Springfield who have drawn poorer blinds are determined by the area operator; shall have priority to be reassigned to the better blinds as they become available.
 - C) A \$15.00 Daily Usage Stamp must be purchased at Snake Den Hollow State Fish and Wildlife Area and Union County Conservation Area.
- 3) Hunting shall be done from assigned blinds only and hunters shall not move from blind to blind or leave the blind and return.
- 4) Guns must be unloaded and encased at all times when not hunting.
- 5) The legal hunting season for Union County Conservation Area is the dates of the Quota Zone goose hunting season except that the areas shall be closed on Mondays and December 24, 25, 26 and the first weekday after December 26 other than a Monday. (This site shall be open only for the Illinois Youth Goose Hunt on the first weekday after December 26 other than a Monday, pursuant to Section 590.25.)
- 6) The legal hunting season at Snake Den Hollow is the dates of the Fulton-Knox County goose hunting zone except that the area shall be closed on Tuesdays, Wednesdays, and December 24, 25 and 26.
- 7) The legal hunting season at Banner Marsh is the dates of the central zone duck hunting season.
- 8) Hunters may not possess more than 5 shells for each Canada Goose allowed in the daily bag at Union County Conservation Area and Snake Den Hollow.
- 9) Hunters without their guns may leave the blind to retrieve crippled waterfowl at Union County Conservation Area.
- 10) Hunters must be at least 16 years of age (except for the Illinois Youth Goose Hunt) to draw for a pit or blind. Each person under 16 years of age must be accompanied by a supervising adult.

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(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 590.40 Check Station Department Sites Only - Duck, Goose and Coot Hunting

- a) The sites listed in this Section conform to Statewide Regulations (Section 590.10) and General Department Regulations (Section 590.15), except as noted in parentheses and in the remainder of this Section. Daily hunting hours close at 1:00 p.m. unless otherwise indicated in parentheses below.
 - 1) Anderson Lake Conservation Area - All Management Units (previous years blind builders shall have until February 1 to salvage blind materials)
 - 2) Batchtown (3:30 p.m. closing; Central Standard Time (CST)) (3 year blind allocation period)
 - 3) Calhoun Point (3:30 p.m. CST closing) (3 year blind allocation period)
 - 4) Glades (3:30 p.m. CST closing) (3 year blind allocation period)
 - 5) Godar-Diamond (3:30 p.m. CST closing) (3 year blind allocation period)
 - 6) Horseshoe Lake - Madison County (3:30 p.m. CST closing; 3 year blind allocation)
 - 7) Lake DePue (sunrise-opening)
 - 8) Marshall County Conservation Area - (previous years blind builders shall have until February 1 to salvage blind materials) - Spring Branch Unit
 - 9) Mazonia State Fish and Wildlife Area (previous years blind builders shall have until February 1 to salvage blind materials; goose hunting prohibited before and after duck season; closed Mondays and Tuesdays)
 - 10) Rice Lake Conservation Area (previous years blind builders shall have until February 1 to salvage blind materials)
 - 11) Sangamon State Fish and Wildlife Conservation Area (check station and walk-in areas, hunters are not required to hunt from a blind site during goose seasons held prior-to-or after the duck season)
 - 12) Spring Lake (previous years blind builders shall have until February 1 to salvage blind materials; during the waterfowl season, the maximum horsepower limit for outboard motors on the lake is 25 h.p.; no goose hunting prior to duck season)
 - 13) Stump Lake (3 year blind allocation period; 3:30 p.m. CST closing)
 - 14) Woodford County Fish and Wildlife Area (previous year's blind builders have until February 1 to salvage blind materials)
 - 15) William Powers Conservation Area (legal closing) (previous years blind builders shall have until May 1 to remove blinds in their entirety, including support posts; failure to comply will result

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in the blind builder and partners for that blind losing privilege of being a blind builder or partner at this site for the following year; no goose hunting prior to duck season; hunting from boat blinds is permitted within 10 feet of the following numbered marked blind sites: 4, 5, 7, 8, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23; all hunters must check in prior to occupying blind and must check out no later than one hour after legal closing time)

b) The following regulations apply to all sites listed in this Section under subsection (a):

- 1) All hunters must report to the check station to fill out information cards and to turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to blinds. Beginning the day after duck season ends, when the check station is not operating, unclaimed blinds shall be allocated on a first come-first served basis, as per Section 590.50(b)(1), (2) and (3). Goose hunters must sign in prior to hunting and sign out and report their harvest at the end of each day's hunt.
- 2) Registered blind builders or partners desiring to claim their blinds must report to the check station at least one hour before hunting hour each day and occupy that blind for at least one hour. Hunters wishing to move to another blind during their daily hunt must report back to the check station for reassignment.
- 3) All hunting must be from registered blinds only and hunters must occupy their blinds within one hour after registering at the check station.
- 4) All hunters must be checked out within one hour of the close of the legal hunting hours. At this time waterfowl and coots bagged must be checked and hunting licenses or Firearm Owner's Identification Cards shall be returned.
- 5) It shall be unlawful to trespass upon the designated duck hunting area during the 7 days prior to the regular duck waterfowl season as posted at the site. At Mississippi River Area Pools 25 and 26 it shall be unlawful to trespass upon the designated duck hunting area between sunset of the Sunday immediately preceding opening day of regular duck waterfowl season through the day before regular duck waterfowl season as posted at the site. It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges from two weeks prior to the start of regular duck season through the close of regular duck and Canada goose season.
- 7) No more than 4 persons shall occupy a blind at one time.
- 8) Blind sites shall be allocated for a period of one year unless otherwise noted in parentheses under subsection (a).
- 9) During duck season, blinds not claimed by the builder or partners by one hour before hunting time shall be assigned by a drawing at this time and during the hours from 8:00 a.m. to 11:00 a.m.,

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except at Batchtown, Calhoun Point, Glades, Godar-Diamond, Horseshoe Lake State Park (Madison County) and Stump Lake (9:00 a.m. - 1:00 p.m.) after which time the area shall be closed to additional hunters.

10) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds, except as listed in parentheses under subsection (a). After this date, all materials become the property of the new blind builder or the Department.

11) For those sites listed in this subsection that have 3 year blind allocation periods, re-registration of blind sites during the non-draw years must be accomplished in person during a publicly announced period. Failure to re-register during the prescribed period will result in the loss of blind site. Registrants must present current year's Illinois hunting license and State waterfowl stamp for each blind builder. Blinds not re-registered will be allocated by a drawing. No waterfowl blind may be removed until after the close of the waterfowl season.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 590.50 Non-Check Station Department Sites Only - Duck, Goose and Coot Hunting

a) The following sites conform to Statewide Regulations (Section 590.10) and General Department Regulations (Section 590.15), except as noted in the remainder of this Section.

Blanding Wildlife Area (Federal Lands, boat access only; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunters)

Boston Bay (No permanent blinds may be built; temporary blinds only; 200 yards apart)

Chain O'Lakes State Park (For goose seasons prior to duck season, hunting allowed from numbered blind sites only and blinds need not be completed; blinds must be removed in their entirety, including support posts, by May 1; failure to comply will result in the blind builder and partners for that blind losing the privilege of being a blind builder or partner at this site for the following year ~~blind materials must be salvaged 7 days after current year's drawing except blind numbers 157-18 and 20 must be removed in their entirety by May 1~~)

Des Plaines River Conservation Area (Goose hunting permitted

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during special goose season prior to regular waterfowl season; during special goose season hunting allowed from numbered blind sites only and blinds do not have to be completed; previous years blind builders shall have until February 1 to salvage blind materials)

Fuller Lake (Daily hunting hours close at 3:30 p.m. CST; 3 year blind allocation period)

Helmbold Slough (Daily hunting hours close at 3:30 p.m. CST; 3 year blind allocation period)

Illinois River - Pool 26 (3 year blind allocation period)

Kankakee River State Park (no boat hide required; no goose hunting permitted prior to duck season; previous years blind builders shall have until February 1 to salvage blind materials)

Lake DePue Walk-in Unit (daily drawing; 1:00 p.m. closed daily hunting hours--are-sunrise-to-1:00-p.m.)

Lake Sinissippi (Department Owned Land; blind numbers 1, 2, 3, 4, 13, 14, 15, 16, 20, 21, 26, 27, 28, 29, 30, 31, and 32 must be removed in their entirety by 15 days after the close of the duck season; blinds may be removed beginning November 15; hunting from boat blinds is permitted within 10 feet of marked blind sites May 1)

Marshall County Conservation Area - Sparland Unit (Department Owned Land; previous years blind builders shall have until February 1 to salvage blind materials)

Sinissippi River Pool 16 (Federal Lands; no permanent blinds--temporary blinds only above Velie Chute except for Goose Pond, Sunfish Slough, and Milan Bottoms (landward area upriver from River Mile 474); 2 year blind allocation period; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunting)

Mississippi River Pool 17 (Federal Lands; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunting; two year blind allocation period)

Mississippi River Pool 18 (Federal Lands; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to

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scull hunting; 2 year blind allocation period)

Mississippi River Pools 21, 22, 24 (Federal Lands; 2 year blind allocation period)

Mississippi River Pools 25, 26 (Federal Lands; 3 year blind allocation period)

Pekin Lake (Department Owned Land)

Piasa Island (3 year blind allocation period)

Red's Landing (3 year blind allocation period; that portion of Red's Landing that is north of the access road will be noted as a walk-in/boats without motors area only; no permanent blinds; daily hunting hours will close at 3:30 p.m. CST; hunting parties shall not hunt over less than 12 decoys nor more than 24 decoys)

Redwing Slough/Deer Lake (closed on Mondays, Tuesdays, Thursdays and Fridays except that hunting will be allowed on opening day of duck season; no goose hunting except during duck season; previous years blind builders shall have until February 1 to salvage blind materials; daily hunting hours will close at 1:00 p.m.)

Redwing Slough/Deer Lake State Natural Area (hunting from boat blinds is permitted within 10 feet of marked blind sites)

Rice Lake Walk-in and Copperas Creek Management Unit (Walk-in or boats without motors only; daily drawing; daily hunting hours will close at 1:00 p.m.)

Riprap Landing (3 year blind allocation period)

Starved Rock State Park (Previous years blind builders shall have until February 1 to salvage blind materials; sign in and sign out to report harvest required)

William--W--Powers--Conservation-Area--no-geese-hunting-prior-to-duck-season--boat-hides-required-only-at-designated-sites-at--the-drawing--previous-years-blind-builders-shall-have-until-February-1-to-salvage-blind-materials

b) The following regulations apply to all sites listed in this Section under subsection (a).

- 1) Blind builders or partners must occupy their blinds by one-half hour before opening hunting hour each day in order to claim their blind for the day. Blinds not legally occupied may be claimed on a first come-first served basis.

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- 2) Attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest. The insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind.
- 3) All hunting must be from registered blinds only unless otherwise noted in parentheses under subsection (a).
- 4) Blind sites shall be allocated for a period of one year unless otherwise noted in parentheses under subsection (a).
- 5) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds, except as listed in parentheses under subsection (a). After that date, blinds become the property of the new blind builders.
- 6) No more than 4 persons shall occupy a blind at one time except on Mississippi River Pools 16, 17, 18, 21, 22 and 24 and Blanding Wildlife Area.
- 7) For those sites listed in subsection (a) that have 3 year blind allocation periods, re-registration of blind sites during the non-draw years must be accomplished either in person or through the mail during a publicly announced period. Failure to re-register during the prescribed period will result in the loss of blind site. Registrants must present current year's Illinois hunting license and State waterfowl stamp for each blind builder. Blinds not re-registered will be allocated by a drawing. No waterfowl blind may be removed until after the close of the waterfowl season.
- 8) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges two weeks prior to the start of regular duck waterfowl season through the close of regular duck and Canada goose waterfowl season as posted at the site.
- 9) It shall be unlawful to trespass upon the designated waterfowl hunting area during the 7 days prior to the waterfowl season as posted at the site. At Mississippi River Area Pools 25 and 26 it shall be unlawful to trespass upon the designated waterfowl hunting area between sunset of the Sunday immediately preceding the opening date of waterfowl season through the day before waterfowl season as posted at the site.
- c) Blind winners on the following sites will be provided forms for the purpose of maintaining waterfowl harvest records. The forms must be completed and returned within 15 days after the close of the site's waterfowl season or the blind builder and partners for that blind shall not be allowed to be a blind builder or partner at these sites for the following year.

Chain O'Lakes State Park

Des Plaines Conservation Area

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Kankakee River State Park

Redwing Slough/Deer Lake

William-Powers-Conservation-Area

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 590.60 Various Other Department Sites - Duck, Goose and Coot Hunting

The sites listed in this Section conform to Statewide Regulations (Section 590.10) General-Department-Regulations--(Section--590:39) and the following regulations, except as noted.

a) Regulations

- 1) Hunting hours are from legal opening to 1:00 p.m., except hunting shall be permitted until sunset on those sites indicated with by (1) following the location in subsection (b).
- 2) No permanent blinds allowed; all blinds must be of a portable nature and constructed with natural vegetation at the blind site and no pits can be dug. All materials must be removed or dismantled at the end on the day's hunt.
- 3) Portable boat blinds must have been completed, including final brushing, before entering the water and must be removed at the end of the day's hunt.
- 4) Waterfowl hunters must maintain a distance of 200 yards between hunting parties.
- 5) No hunting is permitted within 200 yards of developed recreation areas, public use facilities, and construction or industrial sites.
- 6) No check station is operated nor is any check in/check out required, except as indicated in the remainder of this Section.
- 7) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges from two weeks prior to the start of regular duck waterfowl season through the close of regular duck and Canada goose waterfowl season except as indicated in the remainder of this Section.
- 8) It shall be unlawful to trespass upon the designated waterfowl hunting area during the 7 days prior to the regular duck waterfowl season as posted at the site.

b) Site specific regulations

- 1) Cache River State Natural Area (1)
- 2) Campbell Pond Wildlife Management Area (1)
- 3) Carlyle Lake Project Lands and Waters

A) No one may enter the subimpoundment area to hunt waterfowl before 4:30 a.m. each day of the waterfowl hunting season, or remain in the area after 3:00 p.m. each day of the waterfowl hunting season, except during the last 3 days of

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the Canada goose season and during any goose seasons that occur before or after Canada goose season, hunters must be out of the area by one hour after sunset and not return until 4:30 a.m. The subimpoundment area is defined as that area bordered by the Kaskaskia River on the east and south and extending north and west to the Carlyle Lake project boundary, and includes impoundment areas 1, 2, 3, and 4 and within the impoundments on the East Side Management Area located east of the Kaskaskia River.

B) The waters of Carlyle Lake are defined as the lake and that portion of the Kaskaskia River, northfork, eastfork, Peppenhorst Branch and Allen Branch north of the buoys only, and Hurricane Creek that are within the boundaries of the Carlyle Lake property.

C) Walk-in hunting shall be permitted in subimpoundment areas. Boats with no motors are allowed in the subimpoundments. Department of Natural Resources personnel will designate boat launching locations.

D) When the water level in the subimpoundment area is too high (due to flooding) to allow walk-in hunting, Department of Natural Resources personnel shall post that the area is open to boats with motors of 10 HP or less and will designate boat launching locations.

E) In the subimpoundment areas, compartment 4 will be a waterfowl rest area during the entire waterfowl season. No hunting within 50 yards of rest area signs on E and F levees which contain subimpoundment 4 is permitted. No trespassing will be allowed, except for hunters boating through the area on the Kaskaskia River along F levee and boaters hunting on Hurricane Creek between C and D levees. At the close of duck hunting season, known eagle protection areas will be posted by the Site Superintendent and will be closed to goose hunting.

F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys shall not be left out unattended or after 3:00 p.m. each day of the waterfowl season, except during the last 3 days of the Canada goose season and during any goose seasons that occur after Canada goose season, decoys shall not be left out unattended or later than one hour after sunset.

G) All waterfowl hunters must register prior to hunting each day of the waterfowl hunting season at the nearest accessible registration box. All hunters must sign out and record their harvest daily before they exit the area.

H) The Army Corps of Engineers may build blinds on Corps managed lands and waters for management purposes only.

I) During the last 3 days of Canada goose season and during any goose seasons that occur after Canada goose season, hunting

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hours shall close at sunset daily.

- 4) Chauncey Marsh (1) Permit required, may be obtained at Red Hills State Park Headquarters and must be returned by February 15.
- 5) Clinton Lake (1)

A) Hunters must obtain free permit from site office prior to hunting; hunters must return the permit and report harvest by February 15 of following year or hunting privileges for following season shall be forfeited.

B) Hunting is allowed only from anchored portable boat blinds except no waterfowl hunting is permitted in the area extending from a line between the west side boat ramp and the southern-most point of the central peninsula to the Davenport Bridge.

C) No more than 4 persons shall occupy or use a portable boat blind.

D) Each hunting party is required to hunt over a minimum of 12 decoys.

E) No hunting is permitted within 300 yards of power lines.

6) Cypress Pond State Natural Area (hunters must sign in prior to hunting and sign out reporting harvest at the end of each day) (1)

7) Dog Island Wildlife Management Area (1)

Hunters must sign in prior to hunting and sign out reporting harvest at end of each day.

8) Donnelley State Wildlife Area

A) Hunting is prohibited on Tuesdays and Wednesdays except open on opening day and on the first Sunday immediately preceding the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 except as indicated in Section 590.25.

B) Hunting hours start at sunrise.

C) Goose hunting is prohibited after the close of the duck season.

D) All hunting shall be from designated blinds only. Refilling or changing blinds is not permitted.

E) All hunters must report to the check station to fill out an information card and turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to blinds.

F) \$10-99 daily usage stamp must be purchased to hunt this area.

G) No outboard motors are allowed by public - only by authorized DNR personnel.

H) No more than 3 persons shall occupy a blind at any one time.

I) All parties are required to report to check station within 1 hour after termination of hunt or no later than 2:00 p.m.

J) All parties must hunt over a minimum of 12 decoys and a maximum of 48 decoys can be used, which must be removed upon the termination of the hunt.

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- K) The first weekend and the third Saturday of the regular duck waterfowl season shall be designated as youth hunt days. This will consist of youth or youths 15 and under plus one adult per blind. There shall be no charge for the youth on these days. Those blinds not allocated to youths shall be available to adults on those days.
- L) One blind shall be made available by priority claim to "disabled" persons (as defined in Section 2.33 of the Wildlife Code).
- 9) East Conant Field
Waterfowl hunters must obtain permits prior to hunting. Permits must be returned by February 15.
- 10) Fox Ridge State Park (1)
Hunting restricted to Embarras River and its flood waters.
- 11) Fort de Chartres Historic Site (1)
A) Hunting is allowed from anchored, portable boat blinds only on a first come-first served basis.
B) Each hunting party is required to hunt over a minimum of 12 decoys which must be removed at the end of each hunting day.
C) No hunting is allowed during firearm deer season.

12) Freeman Mine

Hunting regulations will be publicly announced.

13) 12) Heidecke State Fish and Wildlife Area, Braidwood Fish and Wildlife Area and Powerton Lake

- A) Blind sites shall be allocated on a daily draw basis conducted at the check stations 60 minutes before hunting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select blind site in order drawn; only those hunters registered in party shall be allowed to hunt with their party; no more than three hunters per party; persons under the age of 16 shall not be allowed to hunt unless accompanied by an adult.
- B) Blind sites not selected during the drawing shall be allocated on a first come-first served basis. Vacant blind sites shall not be allocated after the drawing until one hour after legal hunting time. No blind sites shall be allocated after 10:00 a.m. Hunters wishing to move to another blind site must report this move to the check station attendant in person before such a move.
- C) Access to water blind sites must be by boat only and from designated boat launch sites.
- D) All hunting must be from portable boat blinds, within 10 yards of the assigned numbered stake or buoy. No more than 3 persons shall use one blind.
- E) Upon vacating blind sites, all hunters must report to the check station within 1 hour. At this time, waterfowl bagged must be checked in and displayed to the station operator and hunting licenses returned.

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- F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys must be picked up immediately after the hunt is over.
- G) Heidecke Lake and Braidwood Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters from 10 days 2-weeks prior to regular duck season until the close of the regular duck and Canada goose waterfowl season. Powerton Lake shall be closed to boat traffic from 7 days prior to opening of regular duck season until October 1 to February 15, except for legal waterfowl hunters, and closed to all unauthorized entry during the regular duck waterfowl season.
- H) No hunting on Monday and Tuesday at Heidecke and Braidwood Lakes. No hunting at Powerton Lake on Monday through Thursday except hunting permitted on State holidays.
- I) It is unlawful to hunt waterfowl on the water area in any watercraft less than 16 feet long and 60 inches in beam and without a gas-powered motor.
- J) No guns may be carried from water blinds to retrieve waterfowl that fall on land.
- K) Hunting is closed on Christmas Day and New Year's Day.
- L) All water areas not posted with blind site numbers shall be refuge and are closed to all boat traffic except by authorized personnel.
- M) It is unlawful to shoot across any dike.
- N) Waterfowl hunting shall close with the conclusion of the duck season at Powerton Lake. At Heidecke and Braidwood Lakes waterfowl hunting closes at the end of duck or goose season, whichever is later. No goose hunting is allowed prior to duck season.
- 14) 13) Horseshoe Lake (Alexander County) Daily Drawing Waterfowl Hunting Area Only
- A) Waterfowl hunting shall be permitted only during goose season, except that no hunting is allowed on Mondays, Tuesdays or December 24, 25, 26 and on the day of the Youth Goose Hunt (this site shall be open only for the Illinois Youth Goose Hunt on the first weekday after December 26 other than a Monday, pursuant to Section 590.25).
- B) Hunting shall be done from assigned blinds only.
- C) A daily drawing for assigned blind sites will be held at 5:00 a.m. at the check station each day hunting is allowed. For the drawing, hunters must register as a party; no more than two people per party are permitted.
- D) Hunters must deposit their license prior to going to their blinds.
- E) Hunters must park in assigned, designated areas only.
- F) Hunters must hunt over a minimum of 12 Canada goose decoys.
- G) Hunters must return to the check station and report their

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- harvest by 2:00 p.m.
- H) Hunters may not possess more than 5 shells for each Canada goose or subspecies allowed in the daily bag.
- I) Hunters cannot move from blind to blind, nor leave the assigned blind to shoot crippled geese; hunters may leave the assigned blind to retrieve crippled geese, but must leave their guns in the blind.
- 15)14 Horseshoe Lake (Alexander County) Public Hunting Area
- A) Closed to waterfowl hunting on Mondays and Tuesdays.
- B) When duck season is closed, goose hunters may possess no more than 5 shells for each Canada goose or subspecies allowed in daily bag.
- 16)15 Horseshoe Lake Refuge (no hunting allowed, no boat motors except trolling motors will be allowed on Horseshoe Lake from October 15 to March 1)
- 17)16 Kaskaskia River Fish and Wildlife Area
- A) No waterfowl hunters may remain in the area after 3:00 p.m. For those lands lying south of Illinois Route 154 and north of Illinois Route 13, the legal hunting hours shall be from statewide opening hour until statewide closing hour.
- B) All waterfowl hunting parties must use at least 12 decoys. Hunting is allowed on a first come-first served basis. It is unlawful to leave duck and goose decoys unattended. Decoys must be picked up at the end of each day's hunt.
- D) All waterfowl hunters must register prior to hunting each day of the waterfowl season at the nearest check station, and must sign out and record their harvest daily before they exit the area. ~~Between the Highway 13 and Highway 154 bridges all hunters are required to sign out and report harvest daily at the nearest check station.~~
- E) The following regulations apply to the Doza Creek Waterfowl Management Area:
- i) No waterfowl hunters may enter the area before 3:00 a.m. each day of the waterfowl hunting season. No waterfowl hunters may remain in the area after 3:00 p.m.
- ii) Only waterfowl, coot, and archery deer and fall archery turkey hunting (as provided by 17 Ill. Adm. Code 670 and 720) hunting allowed in this area during the duck hunting season; goose hunting is closed during the second firearm deer season if the second firearm deer season occurs after duck season.
- 18)17 Kinkaid Lake Fish & Wildlife Area (1)
- 19)10 Lake Shelbyville (except for land/waters covered in subsection (b)(19) of this Section) (1)
- 20)19 Lake Shelbyville West Okaw and Kaskaskia Fish and Wildlife Area
- A) Waterfowl hunting shall be permitted as described below

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- except in duly posted restricted and "No Hunting" areas.
- B) Waterfowl hunting in the Fish Hook, the North Dunn, the McGee, and the Jonathan Creek Waterfowl Areas shall be allotted by a daily drawing from opening day through the first Saturday and Sunday of the regular waterfowl season. Parties must register for drawings between 3:00 a.m. and 4:00 a.m. Central Standard Time at the check station on those days. Each party drawn shall be allowed to choose one of the staked sites in the waterfowl area. Parties must select sites in the order they are drawn. Maximum party size is 4 persons. In addition, the following regulations shall apply:
- i) All parties must hunt within 10 yards of their assigned stake.
- ii) All parties must be in place by one-half hour before hunting time.
- iii) All parties are required to report their harvest by 2:00 p.m. following each hunt.
- C) Hunting in the Jonathan Creek, North Dunn and McGee Waterfowl Areas shall be restricted to designated, staked sites on a first come-first served basis except as noted in subsections (b)(20)18(A) and (B) above. A hunting party must hunt within 10 yards of the stake.
- D) Each hunting party in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas are required to hunt over a minimum of 12 decoys.
- E) Motors of over 10 horsepower shall not be operated in the Fish Hook, Jonathan Creek, Dunn, and McGee Waterfowl Areas.
- F) Waterfowl hunting only is permitted in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas during the regular waterfowl season, except that pheasant, rabbit and quail hunting is permitted after 1:00 p.m. daily beginning the day after the close of the Central Zone Duck Season.
- G) During the regular waterfowl season, no bank or boat fishing shall be permitted on the Kaskaskia River from the Strickland Boat Access north to the Illinois Central Railroad bridge from one-half hour before sunrise until 1:00 p.m.
- H) A free permit is required, which is obtained from the site office. Permits must be in possession while hunting waterfowl. The permit must be returned and harvest reported by February 15 or the hunter will forfeit his hunting privileges at this site for the following year.
- 21)20 Meredosia Lake - Cass County Portion Only (meandered waters only)
- A) All boat traffic is prohibited from operating on meandered waters (except non-motorized boats may be used to assist in the retrieval of waterfowl shot from private land) from the

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period from one week before waterfowl season opens until the season closes.

- B) Hunting and/or any other activity is prohibited during the period from one week before waterfowl season opens until the season closes.

22) 1211+ Merganser

- A) Waterfowl hunting shall be permitted only during the duck hunting season.
- B) Hunting is allowed in both the walk-in and blind areas only. Those individuals wishing to hunt in the walk-in area are required to deposit their hunting licenses and register at the check station prior to entering the area. Individuals who wish to use the blind area are required to deposit their hunting licenses and participate in a daily drawing during which blinds shall be assigned. Hunting parties shall not change blinds without prior approval from the check station operator. Those persons exempted by law from having hunting licenses must deposit their Firearm Owner's Identification Cards.

- C) The daily drawing shall be held one hour prior to legal opening time.

- D) All members of the hunting party shall register as a group (not to exceed 4 persons per group) for the purpose of the drawing.

- E) Those hunters in the blind area shall park in designated areas. These parking areas shall be numbered to correspond with particular blind sites located along the levee road.

- F) In the blind area, a minimum of 12 decoys per blind is required while hunting waterfowl.

- G) Boats without motors may be used in the walk-in areas.

- H) No hunting Christmas Day.

23) Newton Lake Fish and Wildlife Area

- A) Blind sites shall be allocated by a daily drawing to be conducted 90 minutes prior to hunting time. Blind sites not selected during the drawing (or in the event that personnel are not available to conduct drawing) shall be allocated on a first come-first served basis.

- B) All hunting must be from registered blind sites only and hunters must occupy their blinds within one hour after registering at the check station.

- C) Upon vacating their blinds, hunters must place their completed harvest cards in the collection box located at the boat ramp.

- D) There will be duly posted waterfowl refuges. These areas shall be closed to all boat traffic and boat fishing during the waterfowl season.

- E) No more than 4 persons shall occupy a blind at one time.

- F) The west arm of the lake shall be closed to all waterfowl

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hunting.

- G) Blind sites shall be determined by the Department of Natural Resources and marked with numbered stakes. When it is deemed necessary, the Department shall remove, move or close blind sites in order to carry out the operations of the overall management program.

- H) Hunters wishing to move to another blind location may do so, providing they include the blind change on the harvest card and report their kill for each blind.

- I) Access to blind sites shall be by boat only and from the west side boat ramps.

- J) All hunting must be from one portable blind or one anchored portable boat blind located within a numbered cove and between the assigned numbered stakes.

- K) Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.

- L) No pits or blinds shall be built on State lease Ameren/CIPS land.

- M) Blind site: A position between two like numbered stakes where a blind may be located.

- N) Fishing shall be prohibited in the east arm of the lake during the waterfowl season.

- O) Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt.

- P) When it is deemed necessary for public safety reasons, such as flooding, high winds, or heavy fog, the Department will close the lake area to all fishing and all boating activity except for non-water hunting programs.

- Q) This site is closed to all users except firearm deer hunters during the firearms deer seasons.

22) Madison-National-Waterfowl-Prairie

- A) Hunters must check-out by 2:00 p.m.--A daily drawing will be held--at the check station--60 minutes prior to legal hunting hours--on each day hunting is allowed--A daily fee of--\$5.00 per person will be charged--for waterfowl hunting.

- B) Only walk-in hunting will be permitted--blinds must be portable in nature--or--constructed--of--natural materials located at the blind site--and must be removed at the end of the day's hunt--A maximum of 3 hunters per blind will be allowed.

- C) The site shall be closed to waterfowl hunting--on--Mondays, Tuesdays--Fridays--Thanksgiving--Christmas--New Year's Day--and during site firearms deer hunts.

- D) Waterfowl hunters must hunt within--50--feet--of--the--blind location--marker--All movement--on site--must--be--directly between the check station and blind location--Entry--into

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~~restricted--areas--shall--result--in--the--loss--of--hunting
privileges--at--the--site--for--the--remainder--of--that--season--~~

24)33 Oakford Conservation Area (1)

25)34 Ray Norbut State Fish and Wildlife Area (1)

Statewide season regulations apply except that the season closes
November-30-in-Area-A-and December 15 in Eagle Roost Area Area-C,
or the legal statewide closing, whichever is earlier.

26)25 Rend Lake Project Lands and Waters

A) All waterfowl hunters and all boats must be out of the Casey
Fork and Big Muddy subimpoundments by 2:00 p.m. each day of
the waterfowl season and not return until 4:30 a.m., except
during the last 3 days of the Canada goose season, and
during any goose season occurring after the Canada goose
season, hunters must be out of the areas by one hour after
sunset and not return until 4:30 a.m.

B) No hunting permitted from the subimpoundment dams.

C) No waterfowl hunting permitted within 200 yards of the
refuge boundary, or within 100 yards of any private property
boundary.

B) ~~No-waterfowl-hunting--permitted--within--200--yards--of--any
Whistling-Wings-Access-Area-daily-drawing-blind/pit--~~

D) All boat traffic is prohibited from entering the
subimpoundments from 1 week before waterfowl season until
opening day of waterfowl season.

E) All waterfowl hunters must sign in prior to hunting and
sign out and report their harvest at the end of each day's
hunt.

F) Permanent blinds at the Whistling Wings Access Area shall
be regulated as follows:

i) During goose season, a separate drawing will be held
for the 4 pits at Whistling Wings. This drawing will
be held at the Cottonwood check station following the
drawing for staked hunting sites. Hunters may not
register for more than one drawing per day.
Unsuccessful hunters in the drawing for Whistling
Wings pits may select any unclaimed staked location
after the drawings.

ii) Hunters who wish to hunt together must register as a
hunting party and be present at the drawing.

iii) All hunters must have the registration card from the
check station in their possession while hunting.

iv) Hunters must occupy the pit they have drawn by legal
shooting time. If a pit is not occupied by legal
shooting time, another party who has registered at the
check station may occupy the unclaimed pit. Two
standby-parties--will--be--drawn--for--pit--refill--after
move-up-of-initial-hunting-parties--in--the--reverse
order-of-the-order-the-pits-were-drawn--

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v) No more than 6 dozen decoys may be used per pit.
vi) No more than 4 hunters will be allowed in a pit or
hunting party.

G) Each hunting party is required to hunt over a minimum of 12
decoys at each blind site, and all decoys must be picked up
at the end of each day's hunt.

H) During the last 3 days of Canada goose season and during
any goose seasons occurring after Canada goose season,
hunting hours shall close at sunset daily.

I) The land portion of the Rend Lake Refuge is closed to
trespassing during waterfowl season. The location of the
Rend Lake Refuge is described as follows:

i) Bounded on the south by a buoy line, approximating the
Jefferson-Franklin County Line.

ii) Bounded on the east by a buoy line and/or signs
approximating the channel of the Casey Fork Creek.

iii) Bounded on the west by a buoy line and/or signs
approximating the channel of the Big Muddy River.

iv) Bounded on the north portion of the Big Muddy River by
a buoy line and/or signs approximating a line which
would extend west from Ina, Illinois.

v) Bounded on the north portion of the Casey Fork Creek
by the Casey Fork Subimpoundment Dam.

vi) Bounded on Nason Point by refuge boundary signs at
project limits.

J) After the close of regular duck season, goose hunters may
not possess more than 5 shotgun shells for each Canada Goose
allowed in the daily bag.

K) Staked Hunting Areas - Those areas designated as a staked
hunting area will be publicly announced and the following
regulations will apply:

i) All hunting must occur within 10 yards of an assigned,
numbered stake and only one hunting party may occupy a
staked site at any given time.

ii) Stakes will be assigned via a daily drawing held at
4:00 a.m. during November, 4:30 a.m. in December and
5:00 a.m. in January. Check stations will be open
from 1/2 hour before drawing time to 9:30 a.m. daily.

iii) Check station at the Bonnie Dam Access Area will be
operated on a daily basis through the second weekend
of the waterfowl season. Thereafter, Bonnie Dam check
station will only be open on weekends and holidays as
posted at the check station. Cottonwood Access Area
will be operated on a daily basis throughout the
waterfowl season for both Bonnie Dam and Cottonwood
Hunting Areas. Hunters who wish to hunt together at a
staked location must register as a hunting party and
be present for the drawing. Only those persons in

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that party may hunt at the assigned stake. No more than 5 persons shall be in a hunting party.

- iv) Hunters arriving at the check station after the draw may enter the staked area only if it is one hour prior to shooting time or between 9:00 a.m. and 9:30 a.m.
All hunters must register at the check station.
Hunters (including those who are not drawn in the initial daily drawing) will not be allowed to enter the staked area until 9:30 a.m. No hunting party may enter the staked area after 9:30 a.m. Hunters will not be allowed to enter the staked area between 9:00 a.m. and 9:30 a.m. unless there are vacant staked hunting locations.

- v) When a staked hunting location is vacated by a hunting party any other registered hunting party may claim the vacant stake on a first come-first served basis. Hunters must occupy the stake they have drawn by legal shooting time.

- vi) When hunting parties have killed their legal daily bag limit of ducks (not including coots and mergansers) and/or Canada geese in respect to the legal hunting season dates they must vacate the hunting site.
- vii) Hunters must sign in and out and report their harvest on the cards at the access area where they launch.

- 27) 267 Saline County Conservation Area (1)
 A) Waterfowl hunting is allowed north of the township road only.

- B) Walk-in hunting only.
 C) Hunters must sign in prior to hunting and sign out reporting harvest at the end of each day.

- 28) 277 Sand Ridge State Forest (Mud Turtle State Natural Area) (1)
 A) Hunting is permitted on Tuesdays and Saturdays during the duck season. Permits are issued on a first come-first served basis.

- B) Two hunters are allowed per blind. At least one hunter must have a P-2 handicapped certification.
 C) Hunters must report harvest to site office.

- 29) 207 Sanganois State Fish and Wildlife Area Conservation Area
 A) Hunters using the walk-in area shall use the check station at the headquarters area located 8 miles northwest of Chandlerville just off Route 78 or the check station on the west side of the Illinois River one mile north of Browning near Route 100.

- B) Walk-in waterfowl hunting shall be permitted only in the area posted for this purpose.

- C) All hunters using a walk-in area must report to the check station to fill out information cards and to turn in hunting licenses or Firearm Owner's Identification Cards before

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- proceeding to area.
 D) Upon the completion of hunting, hunters must report to the check station within one hour.

- E) Fishing is prohibited in the impoundment areas during the duck season, except that walk-in only access for fishing from the bank is permitted after 1:00 p.m.

- F) No person shall trespass on the Barkhausen Refuge during the period from October 1 through end of goose season.

- G) No person shall trespass on the Marion-Pickrel Waterfowl Refuge during the period from October 1 through the last day of the waterfowl season, unless prior permission for a specific reason (such as access to private land or to retrieve dead or wounded game) is granted by the site superintendent.

- H) When the central zone goose season extends beyond the duck season, goose hunting shall be permitted with statewide hunting hours in effect. Hunters need not occupy a blind. All hunting must be conducted within non-refuge areas.

- I) No hunting permitted from the walk-in area subimpoundment levee.

- J) Hunters may use boats without motors in the walk-in area; the construction and/or use of permanent blinds in the walk-in area is prohibited.

- 30) 297 Sangchris Lake State Park
 A) During the last 3 days of Canada goose season, hunting hours will close at statewide closing.

- B) Blind sites shall be allocated by a daily drawing to be conducted 90 minutes prior to hunting time. Blind sites not selected during the drawing (or in the event that personnel are not available to conduct the drawing) shall be allocated on a first come-first served basis. (During that portion of the goose season which follows the duck season, the west side goose pit area, the west arm blind sites and east arm blind sites south of power lines shall be available for goose hunting and shall be allocated on a daily drawing basis to be held at 5:30 a.m. daily.)

- C) During that portion of the goose season which follows the regular Canada goose season, the west-side goose pit area blinds shall be available for goose hunting on a daily basis. These west-side goose pit area blinds shall be allocated via a mail-in drawing from the office. Blinds not occupied one hour before shooting time shall be available on a first come-first served basis. All hunters must sign in at designated parking spots. Hunters may not possess more than 5 shells for each snow goose allowed in the daily bag limit.

- D) 297 All hunting must be from registered blind sites only and hunters must occupy their blinds within one hour after

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registering at the check station.

E)P Upon vacating their blinds, hunters must place their completed harvest cards in the collection boxes located at either the east or west boatdock.

F)P There will be a duly posted waterfowl refuge. These areas shall be closed to all boat traffic (except as allowed in subsection (b)(30)(f)(7)(j)) and boat fishing during the waterfowl season. Bank fishing along the dam shall be permitted.

G)P No more than 4 persons shall occupy a blind at one time.

H)S The center arm of the lake shall be closed to all waterfowl hunting.

I)H Blind sites shall be determined by the Department of Natural Resources and marked with a numbered stake. When it is deemed necessary, the Department of Natural Resources shall remove, move or close blind sites in order to carry out the operations of the overall management program.

J)H Hunters wishing to move to another blind location may do so after 10 a.m. providing they include the blind change on the harvest card and report their kill for each blind.

K)H Access to water blind sites shall be by boat only and from designated boat launch sites. Blinds on the peninsula subimpoundment shall be accessed on foot once the hunter has reached the peninsula by boat. Corridors located along the edges of the existing refuge will be established to provide access to all available blind sites as designated by site superintendent when conditions warrant.

L)K All hunting must be from 1 portable blind or 1 anchored portable boat blind located within a numbered cove and between the assigned numbered stakes or from 1 Department designated blind or pit.

M)B Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.

N)M No unauthorized pits or blinds shall be built on State managed leased or commonwealth-Eaton land.

O)N Blind sites: A position between two like numbered stakes within a cove or other Department designated site where a blind may be located.

P)O Fishing shall be prohibited in the east and west arms of the lake during the period from 10 days prior to the duck season through the end of the duck season. Fishing shall be prohibited in the west arm of the lake and the east arm of the lake south of the power lines during that portion of the Canada goose season that follows the duck season.

Q)P Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt (except

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at peninsula subimpoundments where only Department decoys may be used).

R)O When it is deemed necessary for public safety reasons, such as flooding, high winds, or heavy fog, the Department of Natural Resources will close the lake area to all fishing and all boating activity except for non-water hunting programs.

S)R During flood conditions, waterfowl hunters may hunt the tailwaters of Sangchris Lake dam including Clear Creek and the South Fork of the Sangamon River. Decoys must be removed at the end of each day's hunt.

T) Peninsula subimpoundment blinds will be available on opening day of duck season and every Tuesday and Saturday through the duck season.

U) West-side goose pit area blinds will be available every day each week except Tuesday and Wednesday and December 24 and 25, through the regular Canada goose season.

V) Hunters in the west-side goose pit area may not possess more than 5 shells for each Canada goose allowed in the daily bag limit.

31)30 Sato Field

Waterfowl hunters must obtain permit prior to hunting. Permit must be returned by February 15.

32)33 Shawnee National Forest, Upper and Lower Bluff Lakes
Goose hunting is prohibited.

33)32 Shawnee National Forest, LaRue Scatters

All hunting must be by walking in or in boats without motors.

34)33 Shawnee National Forest, Oakwood Bottoms (Green Tree Reservoir west of the Big Muddy levee)

A) All hunting must be by walking into the area.

B) Each hunting party must hunt over a minimum of 12 decoys in Compartments 19, 20 and 21.

C) No person shall tamper with or attempt to manipulate any of the gates, pumps or structures in the subimpoundment area.

35)34 Stephen A. Forbes State Park

A) On the main lake hunting is allowed from a boat blind only in the designated areas.

B) Only walk-in hunting is allowed in the subimpoundment.

C) Hunting shall be allowed on a first come-first served basis. All hunters must use 12 decoys, minimum.

36)35 Ten Mile Creek Fish and Wildlife Area (1)

A) Waterfowl hunters must obtain permits prior to hunting. Permits must be returned by February 15.

B) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.

C) Areas designated as Rest Areas are closed to all access during the Canada Goose Season only. Rest Area designation

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has been given to that part of the Belle River unit that lies south of Auxier Creek and is posted as Rest Area, and the 250 acre tract at the Western edge of the Eads Mine unit.

- D) After the close of the duck season, goose hunters in that portion of Ten Mile Creek that lies in the Rend Lake Quota Zone may not possess more than 5 shotgun shells for each Canada Goose allowed in the daily bag.

37)36 Turkey Bluffs State Fish and Wildlife Area (All hunters must sign in and out and report kill) (1)

38)37 Union County (Firing Line Waterfowl Management Area)

- A) It shall be unlawful to take a gun beyond the posted boundary while retrieving crippled geese.

- B) During goose season waterfowl hunters may not possess more than 5 shells for each Canada Goose allowed in the daily bag.

- C) During goose season hunting from staked sites only.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites

- a) During goose hunting seasons that begin before or extend beyond the regular duck season, statewide regulations and site specific regulations for goose hunting, as indicated in Sections 590.40, 590.50 and 590.60, shall apply to all sites (except those closed in subsections (c), (d) and (e) with the following exceptions:
- 1) Check in and check out (or sign in and out) is required only at sites with an asterisk (*).
 - 2) No fees will be charged for hunting for seasons before duck season or for seasons after the regular Canada goose season.
 - 3) No sites are closed to fishing during seasons before the regular duck season or for seasons after the regular Canada goose season.
 - 4) Hunting from a completed blind or staked site is waived during seasons held before the regular duck season or for seasons held after the regular Canada goose season at sites marked with an @.
 - 5) Hunting from a staked site (blind need not be completed) is required during seasons held before the regular duck season at sites marked with a #.
 - 6) During goose seasons held prior to regular duck season, no hunting is allowed in designated dove management fields or within 100 yards of such fields.
 - 7) During goose seasons held after the Canada goose season all restrictions regarding the use of decoys or the number of shotgun shells that hunters can possess are no longer in force.
- b) The following sites will be opened to all goose hunting seasons:

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Blanding Wildlife Area @

Cache River Natural Area *

Carlyle Lake Project Lands and Water *

Chain O'Lakes State Park #

Chauncey Marsh (permit required, available at Red Hills State Park)

Des Plaines Conservation Area #

Dog Island Wildlife Management Area *

Fort de Chartres Historic Site

Horseshoe Lake Conservation Area (controlled hunting and public hunting areas) *

Kaskaskia River State Fish and Wildlife Area (between-the-Highway-19 and-Highway-154-bridges) *

Kidd Lake State Natural Area

Kinkaid Lake Fish and Wildlife Area

Lake Shelbyville (except lands and waters covered in Section 590.60(b)(18))

Marshall Fish and Wildlife Area * # @

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26) @

Mississippi River Pools 16, 17 and 18 @

Mississippi River Pools 21, 22, and 24 @

Oakford Conservation Area

Rend Lake Project Lands and Waters @

Saline County Conservation Area *

Sanganois State Fish and Wildlife Area * @

Shawnee Forest, LaRue Scatters

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Shawnee Forest, Oakwood Bottoms

Sparland Fish and Wildlife Area *

Ten Mile Creek Fish and Wildlife Area (permit required; rest areas open to hunting during goose season before and after the regular goose season)

Turkey Bluffs State Fish and Wildlife Area *

Union County Conservation Area (firing line and controlled hunting area) *

Woodford Fish and Wildlife Area * # @

- c) The following sites will be open to any goose hunting seasons that occur before the regular duck season through the end of the regular Canada Goose Season:

Anderson Lake (closed after regular duck season) * @

~~Horseshoe-Lake--Fish--and--Wildlife-Area-(Controlled-Hunting-Area-and Public-Hunting-Area)*~~

Horseshoe Lake State Park (Madison County) #

Lake Shelbyville West Okaw and Kaskaskia Fish and Wildlife Area (must have site specific permit)

Ray Norbut State Fish and Wildlife Area *

Rice Lake (closed after regular duck season) * @

~~Union--County--Fish-and-Wildlife-Area-(Firing-line-Management-Area-and Controlled-Hunting-Area)~~

- d) The following sites will be opened to all goose hunting during any Canada goose hunting seasons that occur after the regular duck season:

Banner Marsh * @

Braidwood State Fish and Wildlife Area *

Clinton Lake

Heidecke State Fish and Wildlife Area *

Kankakee River State Park

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Lake DePue Fish and Wildlife Area *

Lake Sinissippi Fish and Wildlife Area

Newton Lake Fish and Wildlife Area *

Pekin Lake Fish and Wildlife Area

Sangchris Lake State Park *

Spring Lake Fish and Wildlife Area *

Starved Rock State Park *

- e) The following sites will be opened to any goose hunting seasons that occur after the regular Canada goose hunting season:

~~Mississippi-River-Poots-217-22-and-24-@~~Sanganois State Fish and Wildlife Area * @

Stephen A. Forbes State Park *

Snake Den Hollow * @

William W. Powers Conservation Area

- f) The following sites will be closed to all goose hunting seasons that occur outside the regular duck season dates:

Campbell Pond Wildlife Management Area

Donnelley Fish and Wildlife Area

Mazonia State Fish and Wildlife Area *

Meredosia Lake (Cass County portion only, meandering waters only)

Mermet Lake Fish and Wildlife Area

Powerton Reservoir

Redwing Slough/Deer Lake

Shawnee Forest, Upper and Lower Bluff Lakes

- g) The following sites will be open to any goose hunting seasons that occur before the regular duck season and after the regular Canada

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goose season:

Kidd Lake State Natural Area

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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1) Heading of the Part: General Hunting and Trapping on Department-Owned or -Managed Sites

2) Code Citation: 17 Ill. Adm. Code 510

3) Section Numbers: Proposed Action:
510.10 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5] and by Section 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a28].

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add a definition for "publicly announced" so the public knows where to find announcements for hunting programs.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield, IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

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B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 510
GENERAL HUNTING AND TRAPPING ON
DEPARTMENT-OWNED OR -MANAGED SITES

Section
510.10 General Site Regulations
510.20 Hunting and Trapping by Special Permit

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5] and by Section 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a28].

SOURCE: Adopted at 5 Ill. Reg. 8011, effective July 24, 1981; codified at 5 Ill. Reg. 10633; amended at 6 Ill. Reg. 9637, effective July 21, 1982; amended at 7 Ill. Reg. 10775, effective August 24, 1983; amended at 8 Ill. Reg. 13700, effective July 24, 1984; amended at 9 Ill. Reg. 11610, effective July 16, 1985; amended at 10 Ill. Reg. 15597, effective September 16, 1986; amended at 11 Ill. Reg. 9535, effective May 5, 1987; amended at 12 Ill. Reg. 11724, effective June 30, 1988; amended at 13 Ill. Reg. 10583, effective June 19, 1989; amended at 14 Ill. Reg. 14762, effective September 4, 1990; amended at 15 Ill. Reg. 9966, effective June 24, 1991; amended at 16 Ill. Reg. 11064, effective June 30, 1992; amended at 17 Ill. Reg. 10775, effective July 1, 1993; amended at 19 Ill. Reg. 10608, effective July 1, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. _____, effective _____.

Section 510.10 General Site Regulations**a) Regulations**

All the regulations cited in this Part apply to all Department species rules, unless the species rule is more restrictive.

b) Definitions:

- 1) Unauthorized person - any individual who is not a Department employee or an individual who is not present for the purpose of hunting or trapping.
- 2) Designated area - a defined location at a site with a set boundary within which only a specified recreational activity such as hunting or trapping may take place during a publicly announced time period.
- 3) Restricted area - a defined location at a site with a set boundary within which hunting and/or trapping is prohibited.

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- 4) Refuge area - a defined location at a site with a set boundary within which no public activity or presence is allowed, except as authorized by the Department when it is determined that activity such as nature studies, hiking, fishing or camping would not be detrimental to the purpose of the refuge.
 - 5) Adult - a person 18 years of age or older.
 - 6) Waterfowl rest area Rest-Area - a defined location at a site with a set boundary within which no public activity or presence is allowed for a specified period of time, except as authorized by the Department.
 - 7) Hunter or trapper quota Trapper-Quota - The maximum number of hunters or trappers that can be accommodated at a site at any one time. Hunter and trapper quotas are determined by the formula of one hunter or trapper per 10-40 huntable acres. The number of huntable acres is determined by, but not limited to, the biological studies on the number of available animals within a species, the condition, topography and configuration of the land at the site, the condition of the roads at the site and the number of employees available to work at the site.
 - 8) Publicly announced - The information referred to will be included on the Department's Internet Home Page at <http://dnr.state.il.us>, published in Outdoor Illinois, provided to outdoor writers for newsletters, and placed on the Department's Toll Free Hotline.
- c) It shall be unlawful:
- 1) For any person to consume any alcoholic beverage while on any site for the purpose of hunting or trapping.
 - 2) To hunt or trap on any site with a manned check station without first declaring game killed on a previous hunt and in possession either on the hunter's person or in his vehicle.
 - 3) To construct or use any tree stand using nails, screws or any device which pierces or cuts the bark of the tree on which it is installed.
 - 4) To hunt or trap in a restricted area.
 - 5) For unauthorized persons to use or occupy in any manner designated hunting areas during the permit dove hunting season and controlled pheasant hunting season at sites holding such seasons, or during any hunting season where such restrictions are so posted at the site, when authorized hunting is in progress.
 - 6) To enter a refuge, restricted area or waterfowl rest area unless authorized by the Department.
 - 7) To hunt or trap on any Department-owned or -managed land that is not a designated area pursuant to applicable species rules (17 Ill. Adm. Code 530, 550, 570, 590, 650, 660, 670, 680, 690, 710, 715, 720, 730, and 740).
 - 8) To buy, sell or commercialize hunting or trapping rights, directly or indirectly, except that this does not apply to Department of Natural Resources hunting or trapping fees or to the operation of controlled pheasant hunting on Department lands

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- pursuant to a written concession agreement.
- 9) To hunt or trap without a valid permit where permits are required.
- 10) To hunt with any weapon except shotgun or bow and arrow unless otherwise specified.
- d) Specific Management Procedures
 - 1) Specific management procedures will be posted at either check stations or site parking lots at the site so the procedures will be visible to the public.
 - 2) Where there is a check station in operation, or where designated, hunters must sign in and/or sign out, and report their kill within fifteen minutes, or as posted, after completing their hunt. Some areas require the wearing of a back patch and depositing hunting license (or Firearm Owner's Identification card if the hunter is exempt from buying a license).
 - 3) In the event that Department budget reductions or site staffing reductions make the operation of check stations impractical, State state sites that now require check stations and other restrictive hunter regulations may be opened to statewide regulations or closed to hunting by posting such notice at the site.
 - 4) At sites where windshield permits are issued, such permits must be displayed in a location visible through the windshield of the vehicle while hunting.
 - 5) Department will have the authority to issue site specific deer permits in addition to any other deer permits issued by the Department (see See Parts 650, 660, 670 and 680); and to designate the sex of deer (antlered or antlerless) that hunters may harvest through site-specific regulations.
 - 6) All hunter or trapper quotas are filled on a first come-first served basis unless a drawing or special permit is used. The Department shall use a special permit or drawing whenever past hunter or trapper participation at a particular site reveals that the demand exceeds the quota established by the Department. Hunters or trappers will be notified as expeditiously as possible through site postings, news releases or public announcements when quotas are established.
 - 7) During pheasant, rabbit, quail and partridge season, hunters and trappers are required to wear a cap and upper outer garment of solid and vivid blaze orange of at least 400 square inches while trapping⁷ or hunting pheasant, quail, Hungarian partridge, rabbit, snipe, rail and woodcock.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Open Space Lands Acquisition and Development Grant Program

2) Code Citation: 17 Ill. Adm. Code 3025

3) Section Numbers:

Proposed Action:
 Amendments
 3025.10 Repeal
 3025.20 New Section
 3025.25 New Section
 3025.30 New Section
 3025.40 New Section
 3025.50 New Section
 3025.60 New Section
 3025.70 New Section
 3025.80 New Section
 Appendix A New Section

4) Statutory Authority: Implementing and authorized by the Open Space Lands Acquisition and Development Act [525 ILCS 35]

5) A Complete Description of the Subjects and Issues Involved: These amendments create specific operating procedures/guidelines which DNR believes are appropriate for the Illinois OSLAD program. The procedures remain very similar to past administration of the federal LWCf program (Part 3030) except continuing program compliance requirements will not be in perpetuity for OSLAD "development" projects and eligible acquisition costs are expanded to include necessary land acquisition appraisal costs. Also, all references to compliance with federal regulations are eliminated.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
 No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price

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Department of Natural Resources
 524 S. Second Street
 Springfield IL 62701-1787
 217/782-1809

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance:
 None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: This rule was not included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENT(S)

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER 9: GRANTS

PART 3025
OPEN SPACE LANDS ACQUISITION
AND DEVELOPMENT GRANT PROGRAM

Section 3025.10 Program Objective
3025.20 Incorporation by Reference (Repealed)
3025.25 Eligibility Requirements
3025.30 Assistance Formula
3025.40 General Procedures for Grant Applications and Awards
3025.50 Eligible Project Costs
3025.60 Project Evaluation Priorities
3025.70 Program Compliance Requirements
3025.80 Program Information/Contact

3025.APPENDIX A Project Evaluation Criteria

AUTHORITY: Implementing and authorized by the Open Space Lands Acquisition and Development Act [525 ILCS 35].

SOURCE: Emergency amendments adopted at 9 Ill. Reg. 13113, effective August 7, 1985, for a maximum of 150 days; adopted at 9 Ill. Reg. 18486, effective November 20, 1985; amended at 10 Ill. Reg. 13253, effective July 30, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. _____, effective _____.

Section 3025.10 Program Objective

The Open Space Lands Acquisition and Development Act (OSLAD) provides for grants to be disbursed by the Department of Natural Resources (Department) to eligible local governments for the purpose of acquiring, or developing and/or rehabilitating lands for public outdoor recreation purposes. These grants will provide up to 50 percent reimbursement of eligible costs and are offered on a priority basis to any local government empowered to spend public funds for such purposes.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 3025.20 Incorporation by Reference (Repealed)

Eligibility selection criteria for grant approval and compliance requirements will be the same as those utilized in evaluating projects for the Band and

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Water-Conservation-Fund-Grant-Program:---The--Department--is--incorporating--by reference--rules--contained--in--17--Ill--Adm--Code--9030--with--the--exception--of Section--9030-10-

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 3025.25 Eligibility Requirements

Agencies eligible for assistance under the OSLAD grant program are any unit of local government with statutory authority to acquire, develop and maintain lands for public outdoor recreation purposes. This includes, but is not limited to, counties, townships, municipalities, park districts, conservation districts and forest preserve districts.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 3025.30 Assistance Formula

The OSLAD program shall operate on a reimbursement basis providing up to a maximum of 50% funding assistance on total approved project costs. Maximum grant awards shall be limited to \$200,000 per annual request for development projects and \$400,000 for acquisition projects unless limits are revised otherwise by public announcement from the Department.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 3025.40 General Procedures for Grant Applications and Awards

- a) Grant applications for assistance under this program must be submitted in accordance with a schedule publicly announced annually by the Department. Failure to submit a completed application to the Department by the specified application deadline date will result in project rejection for that particular year.
- b) Necessary application material and instructions are available through the Department. Awarding of grants will be on a competitive basis (Section 3025.60) and will be made under authority of the Director of the Department of Natural Resources.
- c) Project grant applications consist of the following basic components, at a minimum:

- 1) applicant's name, address and telephone number;
- 2) information on the supply of existing public park acreage and recreation facilities located within the project sponsor's (applicant) jurisdiction;
- 3) an itemized proposed project cost estimate;
- 4) project narrative statement describing the project concept.

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location, need for and objectives of the project, anticipated benefits, proposed usages and method of financing or accomplishing the project;

- 5) project location map, site plat map and proposed development plan;
- 6) project environmental evaluation;
- 7) proof of land ownership or usage rights for proposed development (construction) projects or commitment of title insurance for project property planned for acquisition; and
- 8) a signed document by the applicant verifying the applicant has the resources to initially finance and subsequently manage the project area and will comply with program regulations and indemnify the Department from any liability relative to the project.

c) A program information packet may be obtained from the Division of Grant Administration, Illinois Department of Natural Resources, 524 S. Second Street, Springfield IL 62701-1787, telephone 217/782-7481.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 3025.50 Eligible Project Costs

a) Grant assistance may be obtained for the following items:

- 1) Land acquisition costs (fee simple title or permanent easement, etc.) for public park and/or conservation purposes, including associated eligible appraisal costs. Eligible projects include, but are not limited to, acquisition of land for the following:

- A) general park purposes such as community and neighborhood parks and playfields;
- B) frontage on public surface waters for recreation use;
- C) open space/conservation purposes to protect floodplains, wetlands, natural areas, wildlife habitat and unique geologic or biologic features; and
- D) additions to such areas.

2) Outdoor recreation area development costs (initial facility construction and/or rehabilitation) including, but not necessarily limited to, playfields, playgrounds, equipment, picnic facilities, trails, camping areas, outdoor water sport facilities, nature study areas, and winter sport facilities as well as associated support facilities such as parking areas, access roads, shelters, interpretive centers, restrooms, safety lighting, potable water supply and other directly related support facilities. Professional design services deemed necessary for proper design and construction of the project are also eligible.

b) Acquisition of land from another public agency (excluding school districts) is not eligible for OSRAD grant assistance.

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c) Project costs for which reimbursement is sought cannot be incurred by the project applicant prior to grant approval notification or Department authorization. Costs incurred prior to Department approval are ineligible for grant assistance. For acquisition projects, costs are considered incurred when property deed, lease or other conveyance is accepted by the local sponsor or first payment is made on the project property or to an escrow account/agent for the property. In addition, no purchase agreement, option, etc., or price negotiations shall be entered into prior to Department approval. Development project costs are considered incurred on the date construction contracts are signed or actual physical work begins on the project site or project materials are delivered.

d) No grant awards shall be awarded for the acquisition or development of land that will not be available for general public outdoor recreation use.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 3025.60 Project Evaluation Priorities

The following factors are used by the Department in evaluating and recommending local project applications for funding assistance consideration (see Appendix A):

a) a) Statewide Outdoor Recreation Priorities - 60%
1) Department Statewide Priorities - 35%

Projects are evaluated in terms of their ability to address major outdoor recreation and conservation issues identified by the Department in its "Statewide Outdoor Recreation Plan". These include, but are not limited to, natural area and wetland preservation, protection of endangered/threatened species and critical habitat resources, conservation education, creation of greenways and long distance trail corridors, water-based recreation and recreation for disadvantaged populations. These priorities are listed in the Department's OSRAD Local Participation Grant Manual.

2) Statewide Local Needs Assessment - 25%

Determination of local need is based on a comparison of:

- A) existing local supply of recreation facilities per capita to the statewide median for those facilities as identified in the Department's "Statewide Outdoor Recreation Plan"; and
- B) existing supply and distribution of open space and park land acreage, measured in acres/capita, to the statewide median and/or to locally adopted standards. Recreation needs based on project service area are also given consideration.

b) Project concept and site characteristics - 25%
The project proposal is evaluated in terms of the site's physical and aesthetic qualities, including accessibility; soil, topographic and

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hydrologic characteristics; site vegetation; compatibility with adjacent land uses; environmental intrusion on the site; impacts to cultural and natural resources; and the overall recreational diversity provided by the project.

Local Planning - 10%

c) The major consideration under this criteria is public support and input into the project plan and existence of a comprehensive local recreation and/or open space plan identifying the proposed project as a priority. Consideration is also given for unique recreation opportunities not specifically identified in a local plan but having documented widespread public support.

Other Considerations - 5%

d) Relevant factors considered in evaluating the overall merits of a project and need for funding include projects located in inner-urban areas; proposing initial site development; involving private donations; representing economic revitalization efforts; or from applicants not previously benefitting from OSLAD assistance.

Penalty Factors - (deduct up to 15%)

e) Consideration is given to the applicant's past performance in completing OSLAD or other Department grant projects or unresolved project violations, ability to properly maintain the project site, and failure to cooperate with the Department in completing the "Illinois Recreation Facilities Inventory" (IRFI).

f) Project Application Review and Grant Award:

Department grant staff, in consultation with executive and appropriate resource staff, reviews all applications in accordance with the established evaluation criteria. Preliminary recommendations are then submitted to the Department's "Natural Resource Advisory Board" for consideration at a public hearing conducted by the Board after which final recommendations are forwarded to the Director for OSLAD grant approval.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 3025.70 Program Compliance Requirements

a) Any property acquired or developed through assistance from the Illinois OSLAD grant program must be open to the public for outdoor recreation use as set forth in this Part without regard to race, color, creed, national origin, sex or disability nor on the basis of residence except to the extent that reasonable differences in user fees may be imposed amounting to no more than double the fees charged to residents. Land acquired with funding assistance from the OSLAD program shall be operated and maintained in perpetuity for public outdoor recreation use. Projects receiving development grant assistance only shall be bound by the terms of this Part for the period of time specified below for the total amount of OSLAD funds

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expended on the project:

| Total Grant Expenditure | Time Period after Final Grant Payment |
|---|--|
| \$0 - \$50,000 | 5 years |
| for every \$10,000 increment over \$50,000 | add 1 year |

Property acquired or developed with OSLAD funds may not be converted to a use other than public outdoor recreation use as provided in this Part without prior Department approval. Approval for property conversion will be granted only if the project sponsor substitutes replacement property of at least equal fair market value and comparable outdoor recreation usefulness, quality and location.

b) For projects receiving acquisition assistance, an appraisal must be provided by the sponsoring agency and submitted to the Department for review and certification to establish the property's fair market value. The appraisal must be completed to Department specifications.

c) For projects receiving development assistance, the sponsoring agency must possess either fee simple title or a permanent easement to the property being improved or an approved lease arrangement of at least 20 years, unless otherwise approved by the Department. The Department will consider, on a case-by-case basis, lease arrangements for shorter periods when State statute prohibits a unit of local government from entering into such a long-term agreement, or other circumstances beyond the control of the local unit of government prohibit such arrangements. The sponsor must also adhere to applicable State and local procurement requirements and make available to the Department, upon request, all working plans, specifications, contract documents and cost estimates for review prior to commencing work. The format for any advertisement or prospectus soliciting and inviting bids, indicating dates of same, must also be presented, upon request, to the Department for review prior to publication. The Department will notify the project sponsor if the proposed project requires approval from a registered structural engineer.

d) The local project sponsor is required to enter into an agreement with the Department for an amount agreed upon as necessary to complete the approved project, specifying the related grant reimbursement amount and program compliance regulations.

e) Upon project completion, the project sponsor must submit a certified project billing request (expenditure statement) listing/verifying all funds expended on the project for which grant reimbursement is sought, as well as required billing documentation, as follows:

- 1) Acquisition Project: Proof of good faith negotiations or fair market value offer to land seller, copy of property deed and title insurance policy (Judgement Order in case of condemnation)

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showing ownership transferred to the local project sponsor, and copies of canceled check(s) showing proof of payment to seller.

- 2) Development Projects: Copy of construction As-Built drawings (no larger than 11" x 17"), copy of receipts/invoices for project costs, and copy of canceled checks showing proof of payment.

f) Financial records on approved projects must be maintained and retained by the project sponsor for possible State audit for a period of five years after final reimbursement payment is made by the Department.

g) The sponsoring agency must permanently post an OSLAD grant acknowledgment sign at the project site. The necessary sign will be provided by the Department or specifications for its construction will be furnished to the local project sponsor, if requested.

h) Projects assisted with OSLAD grant funds shall be implemented in accordance with all applicable federal, State and local laws, ordinances and regulations relating to public agency expenditure of funds for public works projects.

i) It shall be understood by the project sponsor that a Department representative may make periodic inspections of the project as construction progresses and that a final inspection and acceptance of the completed project must be made by a representative or agent of the Department prior to final payment of grant reimbursement to the local sponsoring agency.

j) The sponsoring agency shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses, or claims thereof arising under, through or by virtue of the construction, operation and maintenance of OSLAD-assisted facilities. In connection with and prior to the construction, and the subsequent operation and maintenance, of OSLAD-assisted facilities, it shall be understood that the project sponsor is responsible for obtaining any and all necessary construction permits, licenses or forms of consent, as required by law. Failure to obtain any required permit(s) may jeopardize approved grant funding.

l) The sponsoring agency must comply with and abide by the following operation and maintenance provisions:

- 1) All lands and facilities assisted with OSLAD funds shall be continuously operated and maintained by the sponsoring agency in a safe and attractive manner at no cost to the Department and be operated and utilized in such a manner as to maximize the intended benefits to and for the public.

2) The Department shall have access to OSLAD-assisted facilities at all times for inspection purposes to ensure the project sponsor's continued compliance with this Part.

3) The sponsoring agency may enter into a contract or agreement with responsible concessionaires to operate and/or construct facilities, for dispersing food to the public and/or any other services as may be desired by the public and the sponsoring agency for enjoyable and convenient use of the OSLAD-assisted site. Any and all concession revenue in excess of the costs of

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operation and maintenance of the OSLAD lands and/or facilities shall be used for the improvement of said lands or facilities or similar nearby public facilities. All sub-leases or licenses entered into by the sponsoring agency with third persons relating to accommodations or concessions to be provided for or at the OSLAD facility for benefit of the public shall be submitted to the Department, upon request, for its approval prior to the sub-lease or license being entered into or granted by the sponsoring agency.

m) Conflict of Interests

- 1) No official or employee of the local political subdivision who is authorized in his official capacity to negotiate, make, accept, or approve or to take part in such decisions regarding a contract or subcontract in connection with an approved OSLAD grant project shall have any financial or other personal interest in any such contract or subcontract.

2) No person performing services for the local political subdivision in connection with an approved OSLAD grant project shall have a financial or other personal interest other than his employment or retention by that local political subdivision in any contract or subcontract in connection with an approved OSLAD grant project. No officer or employee of such person retained by the local political subdivision shall have any financial or other personal interest in any real property acquired under an approved OSLAD grant project unless such interest is openly disclosed upon the public records of the local political subdivision and such officer, employee or person has not participated in the acquisition for or on behalf of the local political subdivision.

n) The project sponsor certifies that it provides a drug free workplace and related employee assistance as defined and required by the Drug Free Workplace Act [30 ILCS 105/16].

o) Pursuant to 775 ILCS 5/2-105(A)(4), the project sponsor certifies that it has a written sexual harassment policy that includes, at a minimum, the following information:

- 1) the illegality of sexual harassment;
- 2) the definition of sexual harassment under State law;
- 3) a description of sexual harassment utilizing examples;
- 4) the contractor's internal complaint process, including penalties;
- 5) the legal recourse, investigation and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and
- 6) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act [775 ILCS 5/6-101]. A copy of the policy shall be provided to the Department of Human Rights upon request.

p) Program Violations and Project Termination

- 1) The State will unilaterally rescind project agreements at any time prior to the commencement of the project in the event that

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State funds are not appropriated for the grant program. After project commencement, agreements may be rescinded, modified or amended only by mutual agreement with the local political subdivision. A project shall be deemed to be commenced when the local political subdivision makes any expenditure or incurs any obligation with respect to the project.

- 2) Failure by the local sponsoring agency to comply with any of the program terms listed in this Section shall be cause for the suspension of all grant assistance obligations, unless, in the judgement of the Department, such failure was due to no fault of the local sponsoring agency (e.g., statutory changes, acts of God).

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 3025.80 Program Information/Contact

For information on the OSUAD Grant Program, contact:

Illinois Department of Natural Resources
Division of Grant Administration
524 South Second Street
Springfield IL 62701-1787
Telephone: 217/782-7481
FAX: 217/782-9599

(Source: Added at 22 Ill. Reg. _____, effective _____)

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Section 3025.APPENDIX A Project Evaluation CriteriaSTATEWIDE RECREATION PRIORITIES (35%)

Preservation/management of natural areas, wetlands, endangered and threatened species sites; preservation/improvement of wildlife habitat areas; conservation education; water-based recreation opportunities; preservation of greenways and long-distance trail corridors; intergovernmental cooperation benefiting recreation; and improvement of recreation opportunities for disadvantaged populations.

STATEWIDE LOCAL RECREATION NEEDS (25%)

Facility need based on comparison of existing local supply to statewide median.

Development Project (0 - 10 points)

(none, some, majority or all facilities of high need)

Acquisition Project (0 - 5 points)

(same factors as for development)

Existing supply of available local recreation acreage compared to statewide median for local agencies or locally identified standard per local plan. An evaluation of the types of park acreage available (park system balance) between community parks and neighborhood (walk to) parks is evaluated based on the guideline that approximately 80% of local acreage should be devoted to community park facilities and 20% to neighborhood (walk to) parks.

Development Projects (0 - 5 points)

Acquisition Projects (0 - 10 points)

Specific Project "Service Area" (0 - 10 points)

Neighborhood Park

(highest priority: 1/2 mile service radius)

(2nd priority: 1/4 mile service radius)

(lowest priority: overlapping service areas)

Community Park

(highest priority: 1st such park within 2 mile radius)

(2nd priority: 1st park within 1 mile radius)

(lowest priority: similar facility in service area)

County/Regional Park (multi-community service area)

(Note: physical barriers restricting travel are taken into consideration.)

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Exceptions within this category:

(project prevents loss of existing facility)
(project represents unique opportunity with public support
or protects important natural areas)

(Source: Added at 22 Ill. Reg. _____, effective _____)

PROJECT JUSTIFIED BY LOCAL PLAN (10%)

Identified as priority in local plan

Development project (0 - 5 points)

Acquisition project (0 - 8 points)

Evidence of "direct" public involvement in project/plan

Development project (0 - 5 points)

Acquisition project (0 - 2 points)

PROJECT CONCEPT AND ENVIRONMENTAL SUITABILITY (25%)

Site Suitability (0 - 13 points)

access to site (vehicular/pedestrian, parking, etc.)
environmental factors and impacts
adjacent land use compatibility
safety issues

Site Design/Concept (0 - 12 points)

recreational diversity including multi-season use
adequate support facilities
diversity of age groups benefitting
site aesthetics and design
site impacts on adjacent land uses
facility cost/benefit assessment

OTHER CONSIDERATIONS (5%)

land or cash donation or volunteer involvement
initial site development
high-density urban population areas
project part of community economic redevelopment initiative
grant "fair share" distribution factor
project by newly created agency

PROJECT PENALTIES (up to 15 point deduction or possible ineligibility)

poor past grant performance or "unresolved" project violation
evidence of poor facility maintenance by agency
failure to cooperate with Department in supplying Illinois
Recreation Facilities Inventory data
necessary application "follow-up" response time unsatisfactory

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NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Public Use of State Parks and Other Properties of the Department of Natural Resources

- 2) Code Citation: 17 Ill. Adm. Code 110

- 3) Section Numbers: 110.4
Proposed Action: Amendments

- 4) Statutory Authority: Implementing and authorized by Section 8 of the State Forest Act [525 ILCS 40/8] and by Sections 1, 2, 4 and 6 of the State Parks Act [20 ILCS 835/1, 2, 4 and 6] and by Section 5 of the State Parks Designation Act [20 ILCS 840/5] and by Sections 63a, 63a11, 63a15, 63a18, 63a21.1 and 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a, 63a11, 63a15, 63a18, 63a21.1 and 63a28].

- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add language regarding rental of cabins at Eldon Hazlet State Park.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield, IL 62701-1787
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance:

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None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rule was summarized: This rule was not included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENT(S)

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER a: LANDS

PART 110

PUBLIC USE OF STATE PARKS AND OTHER PROPERTIES OF THE
DEPARTMENT OF NATURAL RESOURCES

| Section | |
|---------|---|
| 110.4 | Fees and Charges |
| 110.5 | Unlawful Activities |
| 110.20 | Alcoholic Beverages -- Possession, Consumption, Influence |
| 110.30 | Animals -- Pets, Dogs, Cats -- Noisy, Vicious, Dangerous Animals -- Horses -- Livestock -- Animal Waste |
| 110.40 | Boats and Other Watercraft |
| 110.45 | Abandoned Watercraft |
| 110.50 | Capacity of Areas -- Usage Limitation |
| 110.60 | Camping -- Campfires |
| 110.70 | Destruction of Property -- Flora -- Fauna -- Man-Made and Inanimate Natural Objects -- Collection of Artifacts |
| 110.90 | Group Activity |
| 110.100 | Littering |
| 110.110 | Prohibited Fishing Areas -- Cleaning of Fish |
| 110.120 | Restricted Areas |
| 110.140 | Soliciting/Advertising/Renting/Selling |
| 110.150 | Swimming/Wading/Divining |
| 110.160 | Vehicles -- Operation on Roadway -- Speed -- Parking -- Weight Limit |
| 110.165 | Bicycles -- Operation on Roadway -- Designated Trails |
| 110.170 | Weapons and Firearms -- Display and Use |
| 110.175 | Nudity Prohibited |
| 110.180 | Violation of Rule |

AUTHORITY: Implementing and authorized by Section 8 of the State Forest Act [525 ILCS 40/8] and by Sections 1, 2, 4 and 6 of the State Parks Act [20 ILCS 835/1, 2, 4 and 6] and by Section 5 of the State Parks Designation Act [20 ILCS 840/5] and by Sections 63a, 63all, 63al5, 63al8, 63a21.1 and 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a, 63all, 63al5, 63al8, 63a21.1 and 63a28].

SOURCE: Adopted at 4 Ill. Reg. 11, p. 59, effective March 4, 1980; emergency amendment at 5 Ill. Reg. 8933, effective August 25, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10621; amended at 6 Ill. Reg. 7401, effective June 11, 1982; amended at 8 Ill. Reg. 9967, effective June 19, 1984; amended at 10 Ill. Reg. 9797, effective May 21, 1986; amended at 10 Ill. Reg. 13256, effective July 25, 1986; amended at 13 Ill. Reg. 3785, effective March 13, 1989; amended at 15 Ill. Reg. 14423, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 7934, effective May 11, 1992, for a maximum of 150 days; emergency expired October 8, 1992; amended at 16 Ill. Reg. 15435,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT(S)

effective September 28, 1992; amended at 19 Ill. Reg. 6471, effective April 28, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 22 Ill. Reg. 9573; amended at 22 Ill. Reg. _____, effective _____.

Section 110.4 Fees and Charges

The following fees will be charged for use or reservation of designated facilities effective May 11, 1992, except that Illinois residents who are veterans and disabled or a former prisoner of war [20 ILCS 805/63a23] shall be exempt from subsections (a) and (b) of this Section:

- a) All persons entering a designated swim beach area shall pay a \$1-00 fee. Illinois Beach State Park beaches are not designated swim beach fee areas.
- b) All persons entering a designated special event area shall pay a \$1-00 fee.
- c) All individuals reserving a picnic shelter at sites participating in the Shelter Reservation Program shall pay \$20-00 for the reservation. Checks are to be made payable to the Illinois Department of Natural Resources (site name) and shall be submitted to the site office no less than 10 days prior to the requested reservation date.
- d) The rental of cabins at Eldon Hazlet State Park will operate as follows:
 - 1) Check-in will be at 3:00 p.m. Check-out will be at 10:00 a.m.
 - 2) A maximum of six people will be allowed in each unit.
 - 3) A deposit of the first night's fee, based on the applicable daily rate, will be required when reservations are made. The remaining balance of the fee will be collected when the permit is issued on arrival. A responsible adult (21 years of age or older) must register for the party and thereby acknowledge compliance with the rules and regulations of the site for the party.
- e) The fee structure for the cabins at Eldon Hazlet State Park will be as follows:
 - 1) Daily Rate - Daily rate may be up to \$60 per day for one to two people. An additional daily fee of \$5 will be added for each person staying in the unit, for a total of up to six people. The Department may require a minimum nights' stay. Children under 13 years of age will stay at no cost.
 - 2) Weekly Rate - Weekly rate may be up to \$330 per week for one to two people. An additional weekly fee of \$30 will be added for each person staying in the unit, for a total of up to six people. The Department may require a minimum nights' stay. Children under 13 years of age will stay at no cost.

f) Failure to comply with the provisions of this Part is punishable as a Class B misdemeanor [20 ILCS 835/6].

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: The Taking of Reptiles and Amphibians

2) Code Citation: 17 Ill. Adm. Code 880

3) Section Numbers: Proposed Action:
 880.20 Amendments
 880.60 New Section
 880.70 New Section

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987).

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to clarify existing language on allowable methods of taking frogs and turtles; prohibit collection of reptiles and amphibians in the LaRue-Pine Hills/Otter Pond Research Natural Area in Union County (collection in the area is already prohibited by the U.S. Forest Service); and prohibit collection of the copperbelly watersnake in designated counties (this prohibition is pursuant to a multi-state agreement to protect this rare species).

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
 Department of Natural Resources
 524 S. Second Street
 Springfield, IL 62701-1787
 217/782-1809

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF NATURAL RESOURCES

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A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance:
 None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: This rule was not included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 880
THE TAKING OF REPTILES AND AMPHIBIANS

Section

- 880.10 Prohibition of Commercial Use
880.20 Methods of Taking and Capture
880.30 Daily Catch and Possession Limits
880.40 Captive Born Reptiles and Amphibians
880.50 Protection of Habitat
880.60 Areas Closed to the Taking of Reptiles and Amphibians
880.70 Additional Protective Regulations

AUTHORITY: Implementing and authorized by Sections 5/10-30, 10-35, 10-60, 10-115, 20-5 and 20-90 of the Fish and Aquatic Life Code [515 ILCS 5/10-30, 10-35, 10-60, 10-115, 20-5 and 20-90] and the Aquaculture Development Act [20 ILCS 215].

SOURCE: Adopted at 16 Ill. Reg. 109, effective December 20, 1991; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. _____, effective _____.

Section 880.20 Methods of Taking and Capture

- a) Only those persons who hold a valid sport fishing license or a valid Sportsmen's Combination License may take or attempt to take turtles and/or frogs [515 ILCS 5/20-5] (Ill.-Rev-Stat--1989--ch--56--par-5-17).
- b) Turtles may be taken only by hand, hook and line, or landing dip net. A landing net is defined as a hand-held net with no greater than 1.5 inch bar measurement netting, an opening of not greater than 5 feet in diameter, and a handle.
- c) Bullfrogs may be taken only between June 15 and August 31, both dates inclusive. Bullfrogs may be taken only by hook and line, gig, pitchfork, spear, bow and arrow, hand, or landing dip net. A landing net is defined as a hand-held net with no greater than 1.5 inch bar measurement netting, an opening of not greater than 5 feet in diameter, and a handle.
- d) No person shall take bullfrogs by commercial fishing devices, including dip nets, hoop nets, traps or seines, or by the use of firearms, airguns or gas guns.
- e) No person shall take or possess any species of reptile or amphibian listed as endangered or threatened in Illinois (17 Ill. Adm. Code 1010), except as provided by 17 Ill. Adm. Code 1070.

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NOTICE OF PROPOSED AMENDMENT(S)

f) All other species of reptiles and amphibians may be captured by any device or method which is not designed designated or intended to bring about the death or serious injury of the animals captured. This shall not restrict the use of legally taken reptiles or amphibians as bait by anglers.

g) Any captured reptiles or amphibians which are not to be retained in the possession of the captor shall be immediately released at the site of capture.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 880.60 Areas Closed to the Taking of Reptiles and Amphibians

Unless otherwise allowed by statute or administrative rule, the taking of reptiles and amphibians at any time and by any method is prohibited in the following areas: the LaRue-Pine Hills/Other Pond Research Natural Area in Union County. The closed area shall include the Research Natural Area as designated by the U.S. Forest Service and the right-of-way of Forest Road 345 from the intersection of Forest Road 345 with Forest Road 236 to the intersection of Forest Road 345 with the Missouri Pacific railroad tracks.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 880.70 Additional Protective Regulations

Except as otherwise allowed by statute or administrative rule, taking or possession of the following species of reptiles and amphibians is prohibited: copperbelly watersnake (Nerodia erythrogaster neglecta) in Edwards, Gallatin, Hamilton, Hardin, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne and White counties.

(Source: Added at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: White-Tailed Deer Hunting Season by Use of Handguns

2) Code Citation: 17 Ill. Adm. Code 680

3) Section Numbers: Proposed Action:

680.40 Amendments
680.50 Amendments
680.80 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part are needed to allow the Department additional flexibility for removing surplus deer from State sites and to allow the use of blackpowder, single shot handguns during this deer hunting season.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield, IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance:

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None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 680

WHITE-TAILED DEER HUNTING SEASON BY USE OF HANDGUNS

| Section | Statewide Season |
|---------|---|
| 680.10 | Statewide Deer Permit Requirements |
| 680.20 | Deer Permit Requirements - Group Hunt |
| 680.40 | Statewide Handgun Requirements for Deer Hunting |
| 680.50 | Statewide Deer Hunting Rules |
| 680.60 | Reporting Harvest |
| 680.70 | Rejection of Application/Revocation of Permits |
| 680.80 | Regulations at Various Department-Owned or -Managed Sites |

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

SOURCE: Adopted at 15 Ill. Reg. 13353, effective September 3, 1991; amended at 16 Ill. Reg. 15446, effective September 28, 1992; amended at 17 Ill. Reg. 18810, effective October 19, 1993; amended at 18 Ill. Reg. 15739, effective October 18, 1994; amended at 19 Ill. Reg. 15422, effective October 26, 1995; amended at 20 Ill. Reg. 10906, effective August 5, 1996; amended at 21 Ill. Reg. 9128, effective June 26, 1997; amended at 22 Ill. Reg. _____, effective _____.

Section 680.40 Statewide Handgun Requirements for Deer Hunting

- a) The only legal hunting devices are ~~device-is-a~~ centerfire handguns handgun of .30 caliber or larger with a minimum barrel length of 4 inches and single-shot muzzleloading handguns (blackpowder handguns that are incapable of being loaded from the breech end) of .50 caliber or larger capable of producing at least 500 foot pounds of energy at the muzzle according to published ballistic tables. It shall be unlawful to take or attempt to take white-tailed deer by the use of a semi-automatic handguns, blackpowder revolvers handgun or handguns altered to allow for shoulder firing.
- b) The only legal ammunition for a is--any centerfire handgun is a cartridge of .30 caliber or larger, that is available as a factory load with the published ballistic tables of the manufacturer showing a capability of at least 500 foot pounds of energy at the muzzle and whose case length does not exceed 1.4 inches. Single-shot muzzleloading handguns must use a projectile of .44 caliber or larger with sufficient blackpowder or "blackpowder substitute" (such as Pyrodex) to produce at least 500 foot pounds of energy at the muzzle.

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A wad or sleeve is not considered a projectile or part of a projectile. Full-metal jacket bullets cannot be used to harvest white-tailed deer.

- c) It shall be unlawful to use or possess any other firearm or ammunition in the field while hunting white-tailed deer during the Handgun Deer Season. (Except that the otherwise lawful possession of firearms to take furbearing mammals and game mammals other than deer shall not be prohibited during the handgun deer season as set in Section 680.10.)

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 680.50 Statewide Deer Hunting Rules

- a) The bag limit is one antlerless deer per legally authorized antlerless-only permit. An antlerless deer is a deer without antlers or a deer having antlers less than 3 inches long.
- b) The temporary harvest tag must be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the temporary harvest tag to the deer. The temporary harvest tag must ~~should be~~ attached to the leg of antlerless deer (<3 inch antler length, or no antlers). A permanent harvest tag will be attached to the leg of the deer upon checking at the check station. If the deer head is delivered to a taxidermist for processing, the temporary harvest tag must be removed from the leg and must remain with the head while at the taxidermist. If the carcass is taken to a meat processor, the permanent harvest tag must remain attached to the leg of the deer until it is processed, then must remain with the processed deer until it is at the legal residence of the person who legally took or possessed the deer. Persons delivering deer/parts of deer to a tanner for processing must supply the tanner with their deer permit number to verify lawful acquisition. In the absence of a permit number, the tanner may rely on the written certification of the person from whom the deer was received that the specimen was legally taken or obtained.
- c) Hunters shall not have in their possession, while in the field during the handgun deer season, any deer permit issued to another person (permits are non-transferrable).
- d) Permits shall not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Disposal of unfit deer taken shall be the responsibility of the hunter.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 680.80 Regulations at Various Department-Owned or -Managed Sites

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Sites will be opened to handgun deer hunting only if ~~the county in which they are located is open to handgun-deer-hunting~~ and the site is announced as being open via a news release and/or the site is listed as being open on the handgun deer season application.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Respiratory Care Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1456
- 3) Section Numbers: Proposed Action:
1456.70 Amendment
1456.110 Amendment
- 4) Statutory Authority: Respiratory Care Practice Act [225 ILCS 106] and authorized by Section 60(7) of the Civil Administration Code of Illinois [20 ILCS 2105/60(7)].
- 5) A Complete Description of the Subjects and Issues Involved: This is a new profession undergoing its initial licensure. Due to the number of initial applications still undergoing review and awaiting issuance of licenses, the Department is moving back the date of first renewal from April 30, 1999 to October 31, 1999. This also means that continuing education will not be required until the October 31, 2001 renewal (currently April 30, 2001).
- 6) Do these proposed Rules replace an emergency Rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed Rules contain incorporations by reference? No
- 9) Are there any other proposed Rules pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no effect on local governments.
- 11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax #: 217/782-7645

All written comments received within 45 days after this issue of the Illinois Register will be considered.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing respiratory care or continuing education for respiratory care practitioners.

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B) Reporting, bookkeeping or other procedures required for compliance:
Every respiratory care practitioner license issued under the Act shall expire on October 31 of odd numbered years. The first license renewal period will be October 31, 1999. Licensees are responsible for notifying the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to renew a license. Beginning with the October 31, 2001 renewal, licensees will be required to complete 24 hours of continuing education in order to renew a license.

C) Types of professional skills necessary for compliance: Respiratory care skills are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: None

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1456
RESPIRATORY CARE PRACTICE ACT

| | |
|-----------------|---|
| Section 1456.05 | Application for Licensure as a Respiratory Care Practitioner Under Section 50(b) of the Act (Grandfather) |
| 1456.10 | Definitions |
| 1456.20 | Approved Respiratory Care Training Program |
| 1456.30 | Application for Licensure on the Basis of Examination |
| 1456.40 | Application for Licensure for Graduates from a Nonapproved Program |
| 1456.50 | Examination |
| 1456.60 | Endorsement |
| 1456.70 | Renewals |
| 1456.80 | Inactive Status |
| 1456.90 | Restoration |
| 1456.100 | Unprofessional Conduct |
| 1456.110 | Continuing Education |
| 1456.120 | Granting Variances |

AUTHORITY: Implementing the Respiratory Care Practice Act [225 ILCS 106] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Emergency rule at 21 Ill. Reg. 3730, effective March 11, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 11751, effective August 11, 1997; amended at 22 Ill. Reg. _____, effective _____.

Section 1456.70 Renewals

- a) The first renewal period for licensure under the Act shall be October 31, April--30, 1999. Thereafter, every license issued under the Act shall expire on October 31 April--30 of odd numbered years. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee. Beginning with the October 31, April--30, 2001 renewal and every renewal thereafter, a renewal applicant will be required to complete 24 hours of continuing education as set forth in Section 1456.110 of this Part.
- b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee.
- c) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline

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NOTICE OF PROPOSED RULES

pursuant to Section 95 of the Act.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1456.110 Continuing Education

a) Continuing Education Hour Requirements

- 1) Every renewal applicant shall complete 24 hours of Continuing Education (CE) relevant to the practice of respiratory care required during each prerenewal period. A prerenewal period is the 24 months preceding October 31 April-98 in the year of the renewal.
- 2) A CE hour equals 50 minutes. After completion of the initial CE hour, credit may be given in one-half hour increments.
- 3) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
- 4) A licensee who serves as an instructor, speaker or discussion leader of a CE program will be allowed CE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course and will only be allowed for additional study or research. In no case shall credit for actual time of presentation and preparation be given for more than 12 hours during any renewal period.
- 5) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.
- 6) Respiratory Care Practitioners licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.
- 7) A renewal applicant shall receive 6 continuing education hours for passage of the Advanced Practitioner, Clinical Simulation or any other NBRC examination beyond entry level. CE credit will not be granted for examinations taken more than once.

b) Approved Continuing Education

- 1) All continuing education hours must be earned by verified attendance at or participation in a program which is offered by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below.
- 2) Continuing education credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of the CE requirements of the State of Illinois.
- 3) Credit shall not be given for courses taken in Illinois from unapproved sponsors.

c) Continuing Education Sponsors and Programs

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NOTICE OF PROPOSED RULES

1) Approved sponsor, as used in this Section, shall mean:

- A) The American Association for Respiratory Care or its affiliates;
- B) The Illinois Society for Respiratory Care or its affiliates;
- C) American Medical Association or the Illinois State Medical Society or its affiliates;
- D) American Hospital Association or Illinois Hospital Association or its affiliates;
- E) Illinois Nurses Association or the American Nursing Association or its affiliates;
- F) American Lung Association or its affiliates;
- G) Any other person, firm, association, corporation, or group that has been approved and authorized by the Department pursuant to subsection (c)(2) of this Section upon the recommendation of the Board to coordinate and present continuing education courses or programs.

2) Entities seeking a license as a CE sponsor shall file a sponsor application, along with the required fee of \$500. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The applicant shall certify to the following:

- A) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c) of this Section and all other criteria in this Section. The applicant shall be required to submit a sample 3 hour CE program with course materials, presenter qualifications and course outline for review prior to being approved as a CE sponsor;
 - B) That the sponsor will be responsible for verifying attendance at each course or program, and provide a certification of attendance as set forth in subsection (c)(8) below; and
 - C) That upon request by the Department, the sponsor will submit such evidence as is necessary to establish compliance with this Section. Such evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.
- 3) Each sponsor shall submit a written notice to the Department of a course offering at least 30 days prior to the course date. The notice shall include a course outline and the location, date and time the course is to be offered. The notice shall also contain the credit hours earned upon successful completion of the course.
- 4) Each sponsor shall submit by October 31 April-98 of each odd numbered year a sponsor application along with the \$250 renewal fee. With the application the sponsor shall be required to submit to the Department a list of all courses and programs offered in the prerenewal period, which includes a description,

DEPARTMENT OF PROFESSIONAL REGULATION

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- location, date and time the course was offered.
- 5) Each CE program shall provide a mechanism for written evaluation of the program and instructor by the participants. Such evaluation forms shall be kept for 5 years and shall be made available to the Department upon written request.
 - 6) All courses and programs shall:
 - A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of respiratory care;
 - B) Provide experiences which contain scientific integrity, relevant subject matter and course materials; and
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program.
 - 7) All programs given by approved sponsors shall be open to all licensed respiratory care practitioners and not be limited to the members of a single organization or a group and shall specify the number of CE hours that may be applied toward Illinois CE requirements for licensure renewal.
 - 8) Certificate of Attendance
 - A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:
 - i) The name and address of the sponsor;
 - ii) The name and address of the participant and his/her respiratory care practitioner license number;
 - iii) A detailed statement of the subject matter;
 - iv) The number of hours actually attended in each topic;
 - v) The date of the program;
 - vi) Signature of the sponsor.
 - B) The sponsor shall maintain these records for not less than 5 years.
 - 9) The sponsor shall be responsible for assuring verified continued attendance at each program. No renewal applicant shall receive credit for time not actually spent attending the program.
 - 10) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Board pursuant to the Administrative Hearing Rules (see 68 Ill. Adm. Code 1110) shall thereafter refuse to accept CE credit for attendance at or participation in any of that sponsor's CE programs until such time as the Department receives reasonably satisfactory assurances of compliance with this Section.
 - d) Continuing Education Earned in Other Jurisdictions
 - 1) If a licensee has earned CE hours in another jurisdiction from a nonapproved sponsor for which he/she will be claiming credit toward full compliance in Illinois, that applicant shall submit an application along with a \$20 processing fee prior to taking

DEPARTMENT OF PROFESSIONAL REGULATION

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- the program or within 90 days after the renewal date. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
- 2) If a licensee fails to submit an out of state CE approval form within the required time, late approval may be obtained by submitting the application with the \$20 processing fee plus a \$10 per hour late fee not to exceed \$150. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
 - e) Certification of Compliance with CE Requirements
 - 1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a) above.
 - 2) The Department may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board, at which time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
 - f) Waiver of CE Requirements
 - 1) Any renewal applicant seeking renewal of his/her license without having fully complied with these CE requirements shall file with the Department a renewal application, the renewal fee set forth in Section 75(d) of the Act, a statement setting forth the facts concerning such non-compliance, and a request for waiver of the CE requirements on the basis of such facts. If the Department, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that good cause has been shown for granting a waiver, the Department shall waive enforcement of such requirements for the renewal period for which the applicant has applied.
 - 2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable pre-renewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of such period; or
 - B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:
 - i) An incapacitating illness documented by a currently licensed physician,
 - ii) A physical inability to travel to the sites of approved programs, or
 - iii) Any other similar extenuating circumstances.
 - 3) If an interview with the Board is requested at the time the

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request for such waiver is filed with the Department, the renewal applicant shall be given at least 20 days written notice of the date, time and place of such interview by certified mail, return receipt requested.

- 4) Any renewal applicant who submits a request for waiver pursuant to subsection (f)(1) of this Section shall be deemed to be in good standing until the Department's final decision on the application has been made.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: The Illinois Nursing Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1300
- 3) Section Numbers: Proposed Action:
1300.35 New Section
- 4) Statutory Authority: Illinois Nursing Act of 1987 [225 ILCS 65]
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 90-0061, effective December 30, 1997, includes the reauthorization of the Illinois Nursing Act of 1987. Among its changes was a provision for remedial education. Prior to its passage, any applicant who had not passed the national nursing examination within 3 years of graduation was required to recomplete the entire nursing course of study before issuance of an Illinois license. The Act now allows applicants to submit proof of passage of a Department-authorized remedial nursing education program or recompletion of the entire course of study. This rulemaking establishes the criteria for such remedial education programs.

- 6) Will these proposed amendments replace emergency rules currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813; Fax: 217/782-7645

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing nursing services.

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- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: Nursing
skills are required for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1300

THE ILLINOIS NURSING ACT OF 1987

| | |
|---------|--|
| Section | Definitions |
| 1300.10 | Fees |
| 1300.15 | Application for Examination |
| 1300.20 | The Licensure Examination |
| 1300.25 | Application for Licensure on the Basis of Examination |
| 1300.27 | Licensure by Endorsement |
| 1300.30 | Remedial Education |
| 1300.35 | Approval of Programs |
| 1300.40 | Approval of Current Nursing Practice Update Course |
| 1300.41 | Standards of Professional Conduct for Registered Professional Nurses |
| 1300.42 | Standards of Professional Conduct for Licensed Practical Nurses |
| 1300.43 | Standards for Pharmacology/Administration of Medication Course for |
| 1300.44 | Practical Nurses |
| 1300.45 | Renewals |
| 1300.48 | Restoration |
| 1300.50 | Granting Variances |
| 1300.60 | Practice of Nursing |
| 1300.70 | Fines |

AUTHORITY: Implementing the Illinois Nursing Act of 1987 [225 ILCS 65] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 4 Ill. Reg. 4, p. 290, effective January 14, 1980; amended at 5 Ill. Reg. 801, effective January 7, 1981; codified at 5 Ill. Reg. 11844; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 10023, effective August 1, 1982; amended at 9 Ill. Reg. 6297, effective April 24, 1985; amended at 9 Ill. Reg. 13355, effective August 21, 1985; amended at 11 Ill. Reg. 18251, effective October 27, 1987; transferred from Chapter I, 68 Ill. Adm. Code 300 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1300 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2938; amended at 12 Ill. Reg. 12088, effective July 12, 1988; amended at 14 Ill. Reg. 10035, effective June 12, 1990; emergency amendment at 15 Ill. Reg. 2855, effective February 5, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 8573, effective May 28, 1991; amended at 17 Ill. Reg. 1572, effective January 25, 1993; amended at 19 Ill. Reg. 13552, effective September 19, 1995; amended at 22 Ill. Reg. 3895, effective February 5, 1998; amended at 22 Ill. Reg. _____, effective _____.

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Section 1300.35 Remedial Education

pursuant to Section 12(e) of the Act, no applicant shall be issued a license as a registered nurse or practical nurse unless he/she has passed the examination set forth in Section 1300.25 within 3 years after completion and graduation from an approved nursing program, unless such applicant submits proof of successful completion of the entire nursing education program or one of the following remedial nursing education requirements:

- a) Registered nurse and practical nurse applicants licensed in another U.S. jurisdiction on the basis of successful completion of the national licensure examination may complete the current nursing practice update course set forth in Section 1300.41.
- b) Registered nurse applicants, not licensed in another jurisdiction, may enroll in a professional nursing education program's medical/surgical theory and clinical course that includes the content and clinical experiences as stated on the minimal skills and minimal assignment lists maintained by the Department.
- c) Practical nurse applicants, not licensed in another jurisdiction, may enroll in a practical nursing education program's medical/surgical theory and clinical course that includes the content and clinical experiences as stated on the minimal skills and minimal assignment lists maintained by the Department.
- d) Registered nurse applicants and practical nurse applicants may participate in an individual self-study plan developed by an approved nursing education program in Illinois that includes theory and coordinated clinical practice components.
 - 1) The theory component shall have the following minimum components:
 - A) Assessment of theory learning needs through use of published tests measuring knowledge in medical/surgical nursing, growth and development across the life span and pharmacology;
 - B) Specification by a nursing education program of units of content, objectives and unit plans for study;
 - C) Documented hours equivalent to at least 48 contact hours of theory for registered nurse applicants and 32 contact hours of theory for licensed practical nurse applicants;
 - D) Use of a medical/surgical nursing text currently used in basic nursing education programs;
 - E) A means for demonstrating achievement of objectives.
 - 2) The clinical practice component shall be sponsored by a nursing education program. The clinical practice experience shall include the following minimum components:
 - A) Assessment of skill learning needs, arranged by the applicant with the nursing education program prior to assignment to a unit of the institution;
 - B) Mastery of the registered nurse or practical nurse minimal

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skills list provided by the Department;

- C) Clinical practice component of at least 96 contact hours for registered nurse applicants and 64 contact hours for licensed practical nurse applicants that includes the clinical practice experience noted on the Department's minimal assignment list; and
- D) Identification of a faculty member or registered nurse preceptor.
- e) Registered nurse or licensed practical nurse applicants, taking a self-study course approved by another state board, shall have the course approved by the Department in order for the course to be accepted. The clinical practice component of the course must be provided by an Illinois health care delivery institution and must incorporate the Department's minimal requirements for the clinical practice component. The nurse taking the course must make arrangements with the health care delivery institution for the clinical practice component and identification of a registered nurse preceptor.
- f) Individuals may request a review, by the Board of Nursing, of any other pertinent documents or training that are not set forth in this Section for approval as meeting these requirements.

(Source: Added at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible

- 2) Code Citation: 89 Ill. Adm. Code 309

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 309.10 | New |
| 309.20 | New |
| 309.30 | New |
| 309.40 | New |
| 309.50 | New |
| 309.60 | New |
| 309.70 | New |
| 309.80 | New |
| 309.90 | New |
| 309.100 | New |
| 309.110 | New |
| 309.120 | New |
| 309.130 | New |
| 309.140 | New |
| 309.150 | New |
| 309.160 | New |
| 309.170 | New |
| 309.180 | New |
| 309.190 | New |

- 4) Statutory Authority: 20 ILCS 505;750 ILCS 50; 42 U.S.C.A. 670 et seq; 45 CFR 1356.40 and 1356.41.

- 5) Effective Date of Amendments: May 15, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these rules contain incorporations by reference? No

- 8) Date filed in Agency's Principle Office: May 15, 1998

- 9) Notice of proposal published in Illinois Register: May 30, 1997, 21 Ill. Reg. 6349

- 10) Has JCAR issued a Statement of Objections to these rule(s)? No

- 11) Difference between proposal and final version: Many revisions were made to the proposed version in response to public comments received and legislation enacted after the proposed version was published on May 30, 1997. The major bills passed were Public Act 90-27 and Public Act 90-28 representing the omnibus permanency legislation of 1997; Public Act 90-13, and Public Act 90-15. In addition, the Federal Adoption and Safe Families

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Act (P.L. 105-89) added provisions which affected the proposed rules. The major differences between the proposed version and the final version by Section are:

Section 309.20, Definitions

The following definitions were added: "Adult", "Best interests", "Certification training", "Consent to adoption by a specified person", and "Persons approved for adoption". The definition of "specified consent for adoption" was deleted.

Section 309.40, Adoption Listing Service

A subsection describing the purpose of the Adoption Listing Service was added. Another subsection describing what types of information about a child will be released through the Adoption Listing Service was added.

Section 309.50, Identification of Children for Potential Adoption Planning

A new subsection (b) was added detailing what actions will be taken if the grounds for parental unfitness or for expedited termination of parental rights are identified.

Proposed subsection (b) was changed to (c) and the grounds for parental unfitness, as defined in the Adoption Act were revised to reflect legislative amendments to the Adoption Act.

A new subsection (d) was added describing the grounds for expedited termination of parental rights and the actions to be taken when they are identified.

Section 309.60, Legal Risk Placements

This Section was proposed as Section 309.70, but it has been renumbered up to Section 309.60 with some minor adjustments.

Section 309.70, Freeing Children for Adoption

This Section was proposed as Section 309.60, but it has been renumbered to 309.70. Criteria for taking surrenders for adoption and consents to adoption by a specified person were added.

Section 309.80, Termination of Parental Rights

This Section was proposed as Section 309.90, but it has been renumbered to Section 309.80. The term "legal screening" has been revised to "internal legal screening". A subsection was added to include requests for screenings to determine whether expedited termination of parental rights

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should be sought.

Section 309.90, Putative Father Registry

This Section was proposed as Section 309.80, but it has been renumbered to Section 309.90. A provision (subsection (h)) was added whereby the Registry shall not be used to notify a putative father who is the father of a child as a result of criminal sexual abuse or assault.

Section 309.100, Preparation of Children for Adoption

Clarifications were made to subsection (c) regarding the diligent recruitment requirements necessary to locate a suitable adoptive home for a child.

Section 309.180, Adoption Assistance

This Section was added to cross reference the Department's rules governing adoption assistance in 89 Ill. Adm. Code 302.310, Adoption Assistance.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR: Yes
- 13) Will these rules replace an emergency rule currently in effect? No
- 14) Are there any proposed amendments to this Part pending? No
- 15) Summary and Purpose of These Adopted Rules: These rules describe and codify the adoption services and practices provided on behalf of children for whom the Department of Children and Family Services is legally responsible. The expected effects of these rules are that more children will be placed in permanent homes with less delay than in the past and that both children and adoptive parents will receive higher quality, more professional services from the Department and its provider agencies. The rules also bring Department adoption practices into compliance with the standards of the Council on Accreditation of Services for Families and Children, the provisions of the B.H. Consent Decree, legislation passed during the last legislative session, and the federal Adoption and Safe Families Act (P.L.105-89).
- 16) Information and questions regarding these adopted rules shall be directed to:

Jerry B. Crabtree
Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498

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(217) 524-1983
TTY: (217) 524-3715

The full text of the Adopted Rules begin on the next page.

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TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER a: SERVICE DELIVERY

PART 309

ADOPTION SERVICES FOR CHILDREN FOR WHOM THE DEPARTMENT OF CHILDREN AND FAMILY
 SERVICES IS LEGALLY RESPONSIBLE

| | |
|---------|--|
| Section | Purpose |
| 309.10 | Definitions |
| 309.20 | Recruitment of Adoptive Families |
| 309.30 | Adoption Listing Services |
| 309.40 | Identification of Children for Potential Adoption Planning |
| 309.50 | Legal Risk Placements |
| 309.60 | Freeing Children for Adoption |
| 309.70 | Termination of Parental Rights |
| 309.80 | Putative Father Registry |
| 309.90 | Preparation of Children for Adoption |
| 309.100 | Preparation and Training of Adoptive Families |
| 309.110 | Preparation of the Child's Biological Parents |
| 309.120 | Placement Considerations |
| 309.130 | Placement of Children with Adoptive Families |
| 309.140 | Providing Information to Adoptive Families |
| 309.150 | Post-Placement Services |
| 309.160 | Post-Adoption Services |
| 309.170 | Adoption Assistance |
| 309.180 | Adoption Registry |
| 309.190 | |

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5] and the Adoption Act [750 ILCS 50]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C.A. 670 et seq.; 45 CFR 1356.40 and 1356.41); the Adoption and Safe Families Act (P.L. 105-89).

SOURCE: Adopted MAY 15 1998 22
 effective _____ Ill. Reg.

8773

Section 309.10 Purpose

The purpose of this Part is to describe adoption services available to children for whom the Department of Children and Family Services is legally responsible. These services include the recruitment, selection, preparation and training of adoptive families, the identification and preparation of children for adoption, and adoptive placement and finalization. This Part also describes supportive services to adoptive families and children. These services include adoption assistance, adoption registry services, adoption preservation and post-adoption services.

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Section 309.20 Definitions

"Adoption assistance" or "adoption subsidy" means financial assistance and other services from the Department which are provided to the adoptive parents after the finalization of an adoption of a child with special needs as defined in Section 309.180.

"Adoption placement" means a living arrangement with a family which is directed toward establishing that family as the child's new legal parents.

"Adoption triad" means the adoptive family, the adoptee (child being adopted) and the biological family.

"Adult" means a person who has attained the age of 18.

"Attachment" means the lasting psychological tie between two people who have significance for each other that endures through space and time and serves to join them emotionally.

"Best interests" as defined in the Juvenile Court Act of 1987 means consideration of the following factors in the context of the child's age and developmental needs:

the physical safety and welfare of the child, including food, shelter, health, and clothing;

the development of the child's identity;

the child's background and ties, including familial, racial, cultural, and religious;

the child's sense of attachments, including:

where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and sense of being valued);

the child's sense of security;

the child's sense of familiarity;

continuity of affection for the child;

the least disruptive placement alternative for the child;

the child's wishes and long-term goals;

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the child's community ties, including church, school, and friends;

permanence for the child;

the uniqueness of every family and child;

the risks attendant to entering and being in substitute care; and

the preferences of the persons available to care for the child.

[705 ILCS 405/1-3]

"Certification training" means training directed toward preparing a family to adopt a child for whom the Department of Children and Family Services is legally responsible and may consist of the following different types of training:

six hours of training for foster care conversion adoptions which means that a foster parent or relative caregiver is adopting a child who has been in his or her care; or

six hour of standardized training and an additional individualized training plan specific to the child's needs for adoptive parents who have not had the child in their care prior to the adoptive placement; or

training specified by private child welfare agencies who meet the standards of the Council on Accreditation of Services for Families and Children.

"Children for whom the Department of Children and Family Services is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Confidential intermediary" is an individual appointed by the court for the purpose of obtaining from biological parents or siblings of an adopted person information concerning the background of a psychological or genetically-based medical problem experienced or which may be experienced by the adopted person or obtaining assistance in treating such a problem. [750 ILCS 50/18.3a] A confidential intermediary is obliged by law to protect the identity and privacy of the biological family as well as that of the adoptive family and adopted person.

"Consent to adoption by a specified person" is a voluntary act by the parents to relinquish all parental rights of a child to a person or

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persons specified by the parents in the specific consent document. Consent to adoption by a specified person is further described in Section 309.70 (Freeing Children for Adoption).

"Internal legal screening" means an internal review required by the Department prior to referring a case for termination of parental rights for the purpose of freeing a child for adoption. Depending on local practice, a representative of the State's Attorney's Office may participate in the screening. The purpose of the screening is to determine whether sufficient grounds for termination of parental rights exist and whether adoption is in the best interest of the child. Legal screening is further described in Section 309.90.

"Legal risk placement" means the placement with a family of a child, not yet legally free for adoption, made in the best interests of the child with the intent that the family will become an adoptive resource for the child should the child become legally free for adoption.

"Parental unfitness" means a finding by the court that a person is unfit to parent a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are described in Section 309.50 (Identification of Children for Potential Adoption) and in the Adoption Act [750 ILCS 50].

"Persons approved for adoption" means persons who have been licensed as a foster family home in accordance with 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) or relative caregivers with whom children have been placed in accordance with 89 Ill. Adm. Code 301 (Placement and Visitation Services) and who also meet the certification requirements of Section 309.110(c) of this Part.

"Post-adoption services" are services meant to assist and support the family in maintaining itself in a healthy and nurturing environment and in preserving the adoption. Post-adoption services may include, but are not limited to, social, psychological, psychiatric, health, educational and adoption preservation services. Financial services are available to families and adoptees following the legal consummation of the adoption, when they are eligible for adoption assistance. Post-adoption services also address the needs of adult adoptees and their biological families to seek information and contact, when desired.

"Putative father" means a male, regardless of age, who may be a child's father, but who was not married to the child's mother on or before the date that the child was or is to be born and for whom paternity of the child has not been established in a court proceeding.

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"Surrender for adoption" is a voluntary act by the parents to relinquish all parental rights of a child to an agency for the purpose of placing the child for adoption.

"Termination of parental rights" is a legal action of the court or a voluntary action by the parents which relieves the birth parents of a child of all parental responsibility for the child and deprives them of all legal rights with respect to the child.

Section 309.30 Recruitment of Adoptive Families

The Department shall make special efforts for the diligent recruitment of potential adoptive families that reflect the ethnic and racial diversity of the children for whom adoptive homes are needed. Special efforts shall include contacting and working with community organizations and religious organizations and may include contracting with those organizations, utilizing local media and other resources, and conducting outreach activities. [20 ILCS 505/7]

Section 309.40 Adoption Listing Services

a) The Department or its agent shall maintain coded listings which include the names and addresses of persons who have applied for and have been approved for the adoption of a child. The listings shall also include the names of children for whom:

1) the Department has determined after an internal legal screening that adoption is in the best interests of the child and there are sufficient grounds for termination of parental rights; and

2) two weeks have passed since the internal legal screening determination and an adoptive resource has not yet been identified for the child.

b) The purpose of the adoption listing service is to enable caseworkers to aggressively identify adoptive parents and children for whom adoption is in their best interests.

c) When it can be demonstrated that it would be contrary to the child's best interests to list the child due to the child's mental health problems, the child shall not be listed. This exception must be reviewed and reapproved by the Department's Regional Administrator every six months.

d) Child welfare agencies that provide adoption services on behalf of children for whom the Department is legally responsible are to submit to the Department's agent, for inclusion in the coded listing, the names and addresses of all persons who have applied and been approved for adoption of a child, who are waiting for a child and who have authorized the listing. In addition, child welfare agencies shall also submit to the Department's agent for inclusion in the coded listing the names of such children who have not been placed for adoption. The Department's agent is:

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Adoption Information Center of Illinois
188 W. Randolph, Suite 600
Chicago, Illinois 60601
(800)-572-2390

e) The Department or its agent shall make the coded listings available, without charge, to every child welfare agency in the State in a format which, in accordance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services, protects the confidentiality of the persons seeking to adopt and of the child not yet placed for adoption.

f) Information regarding the child shall be made available as follows:

1) Information that is not included in the listing book, but is provided to child welfare agencies that provide adoption services, shall include specific personal information about the child, including, but not limited to, if applicable, the child's mental health history, health history, HIV test results or diagnosis of AIDS, or parental alcohol or substance abuse history.

2) Information provided to the general public shall be limited to general information about the child such as the child's personality, likes, dislikes, interests and activities. More specific personal information shall only be provided to persons who have expressed an interest in a specific child and are seriously considering adopting the child.

Section 309.50 Identification of Children for Potential Adoption Planning

a) The Department shall immediately consider for all children under its care the possibility of adoption when exploring permanency options, and begin adoption planning when it is in the child's best interests and when either the grounds for parental unfitness as defined in the Adoption Act described in subsection (b) below are present or other additional factors as described in subsection (c) or (d) of this Section are present.

b) When any of the grounds for parental unfitness, as defined in the Adoption Act, or expedited termination of parental rights are identified, the following actions shall be taken:

1) the parents shall explore the opportunity to voluntarily surrender their child for adoption or consent to the adoption of their child by specified person as described in Section 309.70(c) or (d); or

2) if the parents are unwilling to voluntarily surrender or consent to the adoption of the child, the case shall be referred for an internal legal screening in accordance with Section 309.80 (Termination of Parental Rights) to determine whether to seek involuntary termination of parental rights.

c) The following grounds of parental unfitness are defined in Section 1

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of the Adoption Act [750 ILCS 50/1] and should be considered when adoption is in the best interests of the child:

- 1) *Abandonment of the child.* Abandonment of a newborn infant in a hospital. Abandonment of a newborn infant in any setting where the evidence suggests that the parent intended to relinquish his or her parental rights.
- 2) Failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare.
- 3) Desertion of the child for more than three months next preceding the commencement of the adoption proceeding.
- 4) Substantial neglect of the child if continuous or repeated.
- 5) Substantial neglect, if continuous or repeated, of any child residing in the household which resulted in the death of that child.
- 6) Extreme or repeated cruelty to the child.
- 7) Two or more findings of physical abuse to any children under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987 [705 ILCS 405], the most recent of which was determined by the juvenile court hearing the matter to be supported by clear and convincing evidence; a criminal conviction or a finding of not guilty by reason of insanity resulting from the death of any child by physical abuse; or a finding of physical child abuse resulting from the death of any child under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987.
- 8) Failure to protect the child from conditions within his environment injurious to the child's welfare.
- 9) Other neglect of, or misconduct toward, the child; provided that in making a finding of unfitness the court hearing the adoption proceeding shall not be bound by any previous finding, order or judgement affecting or determining the rights of the parents toward the child sought to be adopted in any other proceeding except such proceedings terminating parental rights as shall be had under either the Adoption Act, the Juvenile Court Act or the Juvenile Court Act of 1987.
- 10) Depravity.
- 11) Open and notorious adultery or fornication.
- 12) Conviction of any one of the following crimes shall create a presumption of unfitness that may be overcome only by clear and convincing evidence: first degree murder in violation of paragraph one or two of subsection (a) of Section 9-1 of the Criminal Code of 1961 or conviction of second degree murder in violation of subsection (a) of Section 9-2 of the Criminal Code of 1961 of a parent of the child to be adopted a criminal conviction of first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal

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Code of 1961; a criminal conviction of solicitation to commit murder of any child, solicitation to commit murder of any child for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961; or a criminal conviction of aggravated criminal sexual assault in violation of Section 12-14(b)(1) of the Criminal Code of 1961.

- 12) Habitual drunkenness or addiction to drugs, other than those prescribed by a physician, for at least one year immediately prior to the commencement of the unfitness proceeding.
- 13) Failure to demonstrate a reasonable degree of interest, concern or responsibility as to the welfare of a newborn child during the first 30 days after its birth.
- 14) Failure by a parent to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent, or to make reasonable progress toward the return of the child to the parent within 9 months after an adjudication of neglected or abused minor or dependent minor under the Juvenile Court Act or the Juvenile Court Act of 1987. If a service plan has been established as required under Section 8.2 of the Abused and Neglected Child Reporting Act to correct the conditions that were the basis for the removal of the child from the parent and if those services were available, then, for purposes of this Part, "failure to make reasonable progress toward the return of the child to the parent" includes the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care within 9 months after the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.
- 15) Evidence of intent to forego his or her parental rights, whether or not the child is a ward of the court:
 - A) as manifested by his or her failure for a period of 12 months:
 - i) to visit the child,
 - ii) to communicate with the child or agency, although able to do so and not prevented from doing so by an agency or by court order, or
 - iii) to maintain contact with or plan for the future of the child, although physically able to do so; or
 - B) as manifested by the father's failure, where he and the mother of the child were unmarried to each other at the time of the child's birth:
 - i) to commence legal proceedings to establish his paternity under the Illinois Parentage Act of 1984 [750 ILCS 45] or the law of the jurisdiction of the child's birth within 30 days of being informed, pursuant to Section 12a of the Adoption Act, that he is the father or the likely father of the child or, after being so informed where the child is not yet

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born, within 30 days of the child's birth, or
 ii) to make a good faith effort to pay a reasonable amount of the expenses related to the birth of the child and to provide a reasonable amount for the financial support of the child, the court to consider in its determination all relevant circumstances, including the financial condition of both parents; provided that the ground for termination provided in this subsection (b) shall only be available where the petition is brought by the mother or the husband of the mother.

16) repeated or continuous failure by the parents, although physically and financially able, to provide the child with adequate food, clothing, or shelter.

17) inability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness, or mental retardation as defined in Section 1-116 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-116], or developmental disability as defined in Section 1-106 of that Code, and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period.

18) a finding of physical abuse of the child under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987 and a criminal conviction of aggravated battery of the child.

19) a finding that at birth the child's blood or urine contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances, the presence of which in the newborn infant was the result of medical treatment administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to participate in a drug counseling, treatment, and rehabilitation program.

20) the child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated as a result of criminal conviction at the time the petition or motion for termination of parental rights is filed, prior to incarceration the parent had little or no contact with the child or provided little or no support for the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibility for the child for a period in excess of 2 years after the filing of the petition or motion for

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termination of parental rights.

21) the child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated at the time the petition or motion for termination is filed, the parent had been repeatedly incarcerated as a result of criminal convictions, and the parent's repeated incarceration has prevented the parent from discharging his or her parental responsibilities for the child.

d) Expedited Termination of Parental Rights

At any time between case opening and 30 days prior to an adjudicatory hearing, it becomes known that one or more of the grounds for parental unfitness listed in subsection (d)(1) or (2) exist, the caseworker will seek immediate supervisory consultation to request that a legal screening be convened in accordance with Section 309.80 (Termination of Parental Rights). The purpose of the legal screening will be to determine whether the State's Attorney should be asked to file a petition for expedited termination of parental rights.

1) Grounds for which expedited termination of parental rights must be sought are:

A) extreme or repeated cruelty to the child;

B) a finding of physical abuse and criminal conviction of aggravated battery of the child;

C) conviction of: first degree murder in violation of Section 9-1(a)(1) or (2) of the Criminal Code of 1961 or conviction of second degree murder in violation of Section 9-2(a) of the Criminal Code of 1961 of a parent of the child to be adopted; a criminal conviction of first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of solicitation to commit murder of any child, solicitation to commit murder of any child for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961; or criminal conviction of aggravated criminal sexual assault in violation of Section 12-14(b)(1) of the Criminal Code of 1961;

D) abandonment of a newborn infant in a hospital;

E) abandonment of a newborn infant in a setting where the evidence suggests that the parent intended to relinquish parental rights;

F) incarceration of a parent as a result of a criminal conviction where prior to incarceration the parent had little or no contact with the child or provided little or no support of the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period of two years

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after the filing of the petition or motion for termination of parental rights.

- 2) Grounds for which expedited termination of parental rights shall be considered are:

- A) abandonment of the child (other than newborn infant);
- B) desertion;
- C) inability to discharge parental responsibility due to mental illness, mental impairment or developmental disability;
- D) a finding that at birth the child's blood or urine contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substance Act, or a metabolite of a controlled substance, with the exception of controlled substance or metabolites of such substances, the presence of which in the newborn infant was the result of medical treatment administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to participate in a drug counseling, treatment, and rehabilitation program.

- e) Other additional factors to be considered in identifying the possibility of adoption for a child are:

- 1) the parent has signed or indicated a desire to sign a consent or surrender for adoption;
- 2) the parents have previously signed a consent or surrender for adoption with regards to other children in the past and those children were the subjects of abuse, neglect or dependency petitions and/or parental rights have been terminated with regard to other children in the past, thus indicating that there may be risk of harm to other children in the parents' care; or
- 3) the parent has made unsatisfactory progress in correcting the conditions which led to the removal of his or her children, resulting in a rating of unsatisfactory progress which may be indicative of parental unfitness and return home to either parent is unlikely.

- f) The child's case shall be assessed to determine if any of the grounds for parental unfitness or other factors listed above exist:

- 1) when the Department first assumes custody of the child;
- 2) within 30 days after case opening;
- 3) at each administrative case review; and
- 4) at no less than quarterly reviews and supervisory meetings.

Section 309.60 Legal Risk Placements

- a) Legal risk placements are selected for children for whom the Department deems such placements are appropriate as described in this

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Section. Prior to making a legal risk placement, the Department shall conduct a legal screening in accordance with Section 309.90 to determine whether a legal risk placement is in the child's best interests. Legal risk placements may be appropriate, when pursuit of adoption is in the child's best interests, because:

- 1) any one of the circumstances listed in Section 309.50(b) is present; and
- 2) placement in a prospective adoptive home willing to adopt the child if the child should become legally free will reduce the necessity of multiple placements of the child or eliminate the length of time the child must wait for an adoptive home; and
- 3) any one of the following conditions exists:
 - A) one parent has surrendered parental rights and the identity of the other parent is unknown;
 - B) one parent has surrendered parental rights and a diligent search for the absent parent has been unsuccessful;
 - C) one parent has surrendered parental rights and the identity and whereabouts of the other parent is known and that parent has either made statements indicating a desire to surrender the child or grounds for termination of parental rights exist;
 - D) the identity and whereabouts of the parents are unknown;
 - E) termination of parental rights is under judicial appeal;
 - F) the child comes from a family in which other siblings have been freed for adoption and there is a strong indication that this child will also become free for adoption;
 - G) the court having jurisdiction over the child formally or informally requires that the child be placed with a potential adoptive family prior to considering a petition for involuntary termination of parental rights; or
 - H) the child is currently in a substitute care placement where the foster parents are not seeking to adopt and the State's Attorney has agreed to proceed with a petition to terminate parental rights.

- b) Prior to placing a child in a legal risk placement, the Department shall inform prospective adoptive parents of the risks and enter into a written agreement with the prospective adoptive parents which:

- 1) informs the prospective adoptive parents:
 - A) that the child is not yet legally free for adoption and may never be available for adoption;
 - B) of the residual parental rights retained by the biological parents until the child is free for adoption, unless termination of parental rights is under appeal. Such residual rights, as defined by the Juvenile Court Act of 1987, include the right to reasonable visitation, the right to consent to adoption, the right to determine the child's religious affiliation, and the responsibility for the child's support [705 ILCS 405/1-3];

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- C) of the possibility of the biological parents regaining custody of the child;
- D) of the current status of efforts to terminate parental rights; and
- E) of the status of a diligent search for missing parents, if applicable;
- 2) states the intent of the prospective adoptive parents to adopt the child and the intent of the Department to seek adoption as a goal for the child if parental rights are terminated;
- 3) contains the prospective adoptive parents' agreement to cooperate with a new permanency plan for the child if termination of parental rights is not achieved.
- c) The Department will provide any necessary financial, medical and supportive counseling and services before, during, and after placement of the child in the prospective adoptive parents' home unless:
 - 1) the prospective adoptive parents refuse such assistance; or
 - 2) the supportive counseling and services are unnecessary to the placement of the child; or
 - 3) the child becomes free for adoption and the child will not be eligible for adoption assistance after the adoption is finalized.

Section 309.70 Freeing Children for Adoption

- a) Children for whom the Department of Children and Family Services is legally responsible are free for adoption when any of the following occurs:
 - 1) both parents of the child have signed adoptive surrenders or consents to adoption by a specified person as described in subsection (c) below; or
 - 2) one parent has signed an adoptive surrender or consent to adoption by a specified person as described in subsection (c) below, and parental rights of the remaining parent have been terminated through court action or the remaining parent is deceased; or
 - 3) a court has terminated the parental rights of both parents.
- b) A child 14 years of age or over who is free for adoption must consent to the adoption.
- c) Parents shall be informed that surrenders or consents signed prior to a court determination of abuse, neglect, or dependency may render the child ineligible for adoption assistance.
- d) The following criteria apply to a surrender for adoption:
 - 1) The parent or parents must surrender the child to the Department or a child welfare agency as defined by the Child Care Act [225 ILCS 10];
 - 2) The surrender must be on a form that substantially complies with the forms for surrender contained in the Adoption Act [750 ILCS 50/10(C)];
 - 3) The surrender authorizes the agency to place the child with a

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- family or individual selected by the agency;
- 4) The agency consents to the adoption of the child when the adoption proceeding is commenced in court;
- 5) No surrender assented to by the mother shall be taken within the 72 hour period immediately following the birth of the child;
- 6) A surrender assented to by the mother not less than 72 hours after the birth of the child is irrevocable unless obtained by fraud or duress;
- 7) A surrender may be assented to by the father of the child prior to the birth of the child and may be revoked within 72 hours after the birth by proper written notification from the father. If not revoked by the father within 72 hours after the birth of the child, the surrender is irrevocable. The surrender of a child prior to birth must be on a form that substantially complies with the forms for surrender contained in the Adoption Act [750 ILCS 50/10(D)].
- e) The following criteria apply to a consent to adoption by a specified person:
 - 1) In order to execute a consent to adoption by a specified person:
 - A) the parent or parents must be the parents of a child in whose interests an abuse or neglect or dependency petition has been filed; and
 - B) the Department must approve of the consents by conducting an assessment of a person who will adopt the child, including a check of the Child Abuse and Neglect Tracking System and a Law Enforcement Agencies Data System check; and
 - C) the person who is named in the consent as the person who will adopt the child must be person:
 - i) in whose physical custody the child had resided for at least one year; or
 - ii) in whose physical custody at least one sibling of the child who is the subject of this consent has resided for at least one year, and the child who is the subject of the consent is currently residing in this foster home; or
 - iii) in whose physical custody a child under one year of age has resided for at least three months;
 - 2) The consent shall be valid only if the persons specified in the consent adopts the child;
 - 3) The consent shall be void if:
 - A) the specified person or persons do not file a petition to adopt the child within one year after the consent is signed; or
 - B) a court denies the adoption petition; or
 - C) the Guardianship Administrator of the Department determines that the specified persons will not or cannot complete the adoption or, in the best interest of the child, should not adopt the child;

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- 4) Within 30 days after the consent becomes void, the Guardianship Administrator of the Department shall make good faith attempts to notify the parent, the court and all additional persons, including the State's Attorney, the guardian ad litem, attorneys for the parents, and the person who would have adopted the child as specified in the consent, that adoption has or will not occur and that the consent is void;
- 5) If the adoption does not occur, the biological parents who executed the consent must be notified of any further proceedings to terminate parental rights.

Section 309.80 Termination of Parental Rights

- a) When one of the grounds for termination of parental rights appears to exist and return home as a permanency goal for the child is no longer appropriate, the Department shall conduct an internal legal screening.
- b) The purpose of an internal legal screening is to determine:
 - 1) whether there is sufficient evidence to support a finding that there are grounds for termination of parental rights;
 - 2) whether it is in the best interests of the child to seek termination of parental rights and, if the child is age 14 or over, whether the child will consent to the adoption; and
 - 3) identification of the steps which need to be completed to permit the filing of a petition to terminate parental rights in accordance with local court practices.
- c) In addition, the internal legal screening shall include a review of all potential legal risks in order to advise the Department of the risks involved and the feasibility of the plan.
- d) The following persons shall attend the legal screening:
 - 1) the Department's regional legal counsel;
 - 2) the child's worker;
 - 3) a representative from the regional adoption unit; and
 - 4) the worker's supervisor, whenever possible.
- e) If a determination is made at legal screening that adoption is in the best interests of the child and there are sufficient legal grounds for termination, the following steps shall be taken:
 - 1) Identification of all interested persons, including all putative fathers who need to be served by the State's Attorney for purpose of the Juvenile Court proceeding, who have not previously been served;
 - 2) A petition or motion for appointment of guardian with powers to consent to adoption (termination of parental rights) shall be prepared in all counties in which the Department, rather than the local office of the State's Attorney, prepares the petition;
 - 3) Petitions or motions shall be forwarded to the local office of the State's Attorney (outside of Cook County);
 - 4) In Cook County, referral shall be made to the State's Attorney;
 - 5) The child's worker shall complete all tasks assigned throughout

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- the process;
- 6) The child's worker must list a child without an adoptive resource with the Adoption Listing Service of Illinois in accordance with Section 309.40(a); and
 - 7) All necessary paperwork for termination of parental rights must be submitted to the State's Attorney within 30 days after the internal legal screening.
 - f) The actual filing and prosecution of a termination of parental rights case rests with the local State's Attorney or the Department.
 - g) If a request is made for an internal legal screening to determine whether a request shall be made for expedited termination of parental rights in accordance with Section 309.50(g), the internal legal screening must consist of consultation among at least the caseworker, caseworker's supervisor, regional adoption coordinator, and regional legal counsel. This consultation may take place by telephone.

Section 309.90 Putative Father Registry

- a) The Department shall maintain a Putative Father Registry for the purpose of determining the identity and location of a putative father of a child who is, or is expected to be, the subject of an adoption proceeding in order to provide notice of such proceeding to the putative father.
- b) The Department shall maintain the following information in the Putative Father Registry:
 - 1) With respect to the putative father:
 - A) Name of the putative father, including any other names by which the putative father may be known and that he may provide to the Registry;
 - B) Address at which the putative father may be served with notice of petition under the Adoption Act, including any change of address;
 - C) The Social Security Number of the putative father;
 - D) The putative father's birth date; and
 - E) If applicable, a certified copy of an order by a court of the State of Illinois or of another state or territory of the United States adjudicating the putative father to be the father of the child.
 - 2) With respect to the mother of the child:
 - A) Name of the mother, including any other names known to the putative father by which the mother may be known;
 - B) The mother's last address;
 - C) The mother's Social Security Number; and
 - D) The mother's date of birth.
 - 3) If known to the putative father, the name, gender, place of birth, and date of birth or anticipated date of birth of the child.
 - 4) The date the Department received the putative father's

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registration.

- c) A putative father may register with the Putative Father Registry before the birth of the child but no later than 30 days after the birth of the child. All registrations shall be in writing, signed by the putative father, and submitted to the Department at the following address:

Putative Father Registry
Department of Children and Family Services
160 North LaSalle - 6th Floor
Chicago, Illinois 60601

- d) An interested party, including persons intending to adopt a child, a child welfare agency with whom the mother has placed or has given written notice of her intention to place a child for adoption, the mother of the child, or an attorney representing an interested party may request that the Department search the Putative Father Registry to determine whether a putative father is registered in relation to a child who is or may be the subject of an adoption petition.
- e) Upon receipt of a search request pursuant to subsection (d) above, the registrar shall issue a certified response from the Putative Father Registry.
- f) Except as provided in subsection (d) above, information contained in the Putative Father Registry is confidential and shall not be published or open to public inspection.
- g) A person who knowingly or intentionally registers false information under this Section commits a Class B misdemeanor. A person who knowingly or intentionally releases confidential information in violation of this Section commits a Class B misdemeanor. (See 750 ILCS 50/12.1.)
- h) The Putative Father Registry shall not be used to notify a putative father who is the father of a child as result of criminal sexual abuse or assault as defined under Article 12 of the Criminal Code of 1961.

Section 309.100 Preparation of Children for Adoption

Preparation of children for adoption begins when adoption has been identified as a potential goal for the child. During this pre-placement phase, specific services are provided to the child for whom adoption is being considered.

- a) The Assessment Phase
The assessment phase consists of preparation activities initiated before an adoptive home has been identified. The primary purpose of this phase is completion of an assessment to guide the identification of needs to be met and in directing intervention. Assessments already completed on the following issues should be reviewed, and if needing update, should be updated before deciding whether or not adoption is appropriate for a child:
- 1) assessing the child in relation to the physical, emotional,

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- educational and social environment;
- 2) determining the developmental level and potential of the child;
 - 3) gathering and assessing all pertinent information on the child and family, which includes a complete review of the family history;
 - 4) assessing the child's capacity for attachment;
 - 5) assessing the child's ability and opportunity to grieve losses;
 - 6) assessing issues involving the child's identity;
 - 7) assessing the child's unique qualities by focusing on the strengths and talents possessed by the child; and
 - 8) assessing the child's understanding of the adoption process and making a determination of the child's desire to move toward an adoptive placement.

b) The Preparation for Placement Phase

This phase includes activities that are initiated after the assessment has been completed and reviewed and all the placement considerations have been assessed for applicability for a particular child. Such activities include:

- 1) further assessment of the child's knowledge of adoption as a permanency goal, ensuring that the child understands the selection of the family will be a joint decision between the prospective adoptive family, the child and the Department;
 - 2) Sharing descriptive information about the family with the child;
 - 3) Helping the child deal with feelings of separation and loss;
 - 4) Arranging for specific recruitment activities for any child for whom an adoptive resource cannot be located.
- c) Diligent Recruitment Requirements
If the child's caretaker is not a viable resource for the child, diligent recruitment efforts shall be undertaken to locate adoptive parents who are appropriate to meet the child's needs and best interests, utilizing the placement considerations described in Section 309.130, Placement Considerations. Diligent recruitment efforts include, but are not limited to:
- 1) locating relatives who may be willing to adopt the child and who the Department has reason to believe will be able to adequately provide for the child's safety;
 - 2) a review of the Department's available adoptive resources, contacts with local adoption agencies, and specialized recruitment activities such as parent groups, appropriate religious and civic organizations and service providers, advocacy groups and agencies;
 - 3) a review of the Adoption Listing Service to determine the availability of an appropriate family;
 - 4) listing the child with the Adoption Listing Service, in accordance with Section 309.40, which includes among its services an interstate search, when necessary, consisting of contacts with other states, and out of state adoption agencies and referral/advocacy agencies to find a suitable adoptive placement.

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- d) The Department shall not deny or delay the placement of a child for adoption when a person or family who has been approved as an adoptive resource is available outside of the State, region, or county of jurisdiction.

Section 309.110 Preparation and Training of Adoptive Families

The preparation and training of prospective adoptive families will be done in the following four phases:

- a) Pre-service Preparation and Education
During this first phase the Department or adoption agency will educate prospective adoptive parents in the following areas:

- 1) the purpose and goals of adoption;
- 2) the selection process and the criteria for being licensed and certified as adoptive parents;
- 3) the laws, regulations, policies, resources and values that direct the adoption program;
- 4) information about the needs and strengths of children who require adoption services;
- 5) the respective roles of adoptive parents, agencies, and courts;
- 6) differences between parenting in foster home placement, legal risk placement, and adoptive placement regarding attachment, commitment, relationship with the child's family of origin, expectations, responsibilities, supports and the lifelong impact of adoption;
- 7) the knowledge and practical skills necessary to become successful adoptive parents; and
- 8) the knowledge of developmental challenges and changes faced by adoptive families.

- b) The Assessment Phase

During the assessment phase the Department or adoption agency will:

- 1) help applicants make an accurate and informed assessment of the strengths they bring to adoption, including the kinds of children they could most successfully parent;
- 2) help applicants make an accurate assessment of their needs, including the kinds of support they would need from the Department or the adoption agency;
- 3) make an accurate assessment of the strengths and needs of the prospective adoptive family;
- 4) match the prospective family's assessment with the Department's or agency's assessment;
- 5) develop a written strength and needs assessment or family profile to be used to guide placement of specific children; and
- 6) explore with applicants their willingness to help the child maintain contact with significant relationships in the child's past.

- c) The Certification Process
The certification process includes completion of the required

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certification training and an assessment, which includes a written home study which incorporates information from the assessment phase and includes a recommendation regarding the types of children the family is able to parent which have been approved by the Department or adoption agency supervisor.

- d) Post-Certification Phase

During this phase the Department or adoption agency will:

- 1) provide continued support to the family, including information regarding children available for adoption;
- 2) make specialized training available; and
- 3) introduce adoptive families to adoptive parent support groups, and/or master adoptive parents in those areas where they exist.

Section 309.120 Preparation of the Child's Biological Parents

Preparation of the biological parents of a child for whom an adoptive placement is being sought, includes the following:

- a) assistance and counseling, around issues pertaining to the surrender of parental rights or consent to adoption by a specified person, or in understanding the reasons why, after reunification efforts have been attempted and failed or deemed to be inappropriate, involuntary termination of parental rights is being sought;
- b) in instances where the identity of the biological father is unknown, counseling the biological mother about her role and responsibility regarding the identification of the father as required in the Adoption Act [750 ILCS 50/11(b)] and explaining the potential consequences if the biological father is not identified;
- c) counseling around issues of separation and loss;
- d) obtaining necessary non-identifying background information regarding the biological family's social, medical, and psychological history, as well as the prenatal and medical history of the child;
- e) affording the biological parents the opportunity to share identifying and non-identifying information with the child who is being relinquished for adoption through the Adoption Registry as specified in Section 309.190, Adoption Registry;
- f) giving the biological parents the opportunity to express their desires regarding the placement of their child in an adoptive home which meets their religious and other preferences. The Department will consider the parents' stated preferences, provided they do not delay placement of the child for adoption, are not contrary to the child's best interests, are consistent with applicable law such as the Adoption Act [750 ILCS 50], the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.), and the Removal of Barriers to Inter-Ethnic Adoptions Provisions of the Small Business Job Protection Act of 1996 (42 USCA 671(a) and 674) and Adoption and Safe Families Act (P.L. 105-98);
- g) providing information regarding the possibility of continuing contact between the child and the biological parents or other significant

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persons in the child's life, when such contact is in the child's best interests and compatible with the wishes of the adoptive parents.

Section 309.130 Placement Considerations**a) Consideration of the Child's Needs**

The child's needs and best interests shall be the primary consideration when selecting an adoptive family for a child. The factors to be considered shall include, but are not limited to:

- 1) the wishes of the child under 14 years of age, who demonstrates the maturity and cognitive ability to participate in the decision;
- 2) the physical, mental, and emotional needs of the child;
- 3) the child's need for stability and continuity of relationship with parent figures;
- 4) the interaction between the child and the prospective adoptive parent;
- 5) the prospective adoptive parent's ability to meet the physical, mental, and emotional needs of the child;
- 6) the prospective adoptive parents' ability and willingness to support, maintain and continue to be sensitive to the child's significant relationships with the child's extended family, siblings, and any other significant persons who played an important part in the child's life or to whom the child has established significant emotional ties;
- 7) the ability of the prospective adoptive family to provide an environment which would respect the child's racial, ethnic, and cultural heritage;
- 8) the results of an assessment of the child's capacity for attachment conducted in accordance with subsection (b)(7) below; and
- 9) the consent of a child 14 years of age or older.

b) Other Placement Considerations

The following factors must also be considered when selecting an adoptive placement for a child:

- 1) Siblings: Sibling groups are to be placed together whenever possible. A decision to place siblings apart shall be based on a carefully documented and reviewed determination that such a separation will be in the best interests of all the siblings involved.
- 2) Foster Parent Preference: In accordance with the Adoption Act, licensed foster parents who have cared for a child for a continuous period of one year or more shall be given preference and first consideration over all other applicants for the adoption of that child in their home when adoption is the permanency goal, the child is legally free for adoption and adoption is in the child's best interests.
- 3) Consideration of Relatives: The Department may consider relatives

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as a potential adoptive resource for children who do not have an identified adoptive resource and are not going to be adopted by their current caregiver.

- 4) Parenting Capacity of Adoptive Parents: Adoptive parents shall be selected who are likely to retain their parenting capacities or are effectively able to adapt to the needs of the child as they grow, change and develop. Assessments shall include such information as the family's future plans for financial security, child care and supports for child rearing in the event of a significant illness or death of the adoptive parents.
- 5) Religion: The best interests of the child shall be the prime consideration in the placement of a child for adoption. A child shall be placed, whenever possible, with adoptive parents holding the same religious belief as that of the child. (See 750 ILCS 50/15.)
- 6) Communication Needs: In the case of a child who is hearing impaired, the child shall be placed in a home where one of the members is able to communicate in the child's preferred mode of communication; e.g., sign language. In the case of a limited/non-English speaking child, the child shall be placed in a home where at least one person speaks the child's primary language. In an otherwise suitable adoptive home, placement shall not be denied if the prospective adoptive parents have enrolled in a language course to learn the method of communication used by the child prior to finalization of the adoption.
- 7) Level of Attachment: When there is some question about a child's level of or capacity for attachment, the Department shall assess the child's level of or capacity for attachment in making an adoptive placement decision. Such assessments require prior supervisory approval after consultation with Department adoption staff.

Section 309.140 Placement of Children with Adoptive Families

When a specific family is identified as appropriate for the placement of a specific child waiting to be adopted, the Department or adoption agency will:

- a) present information on the child to the family to allow the family to make the decision to proceed to the next step in placement;
- b) bring the child and family together in a situation designed to offer the family an opportunity to observe the child's appearance and behavior without risk of rejection;
- c) arrange a face-to-face meeting between the child and family;
- d) plan a series of visits and contacts, usually of progressive duration, to move the child and family toward placement; and
- e) bring about the actual placement of the child with the adoptive family after which appropriate post-placement services will be provided in accordance with Section 309.160 of this Part.

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Section 309.150 Providing Information to Adoptive Families

The Department or adoption agency will provide, if known, to the family identified to adopt the child the following information, in writing, regarding the child as soon as possible, but no later than ten days prior to the date of the adoptive placement or the legal risk placement with prospective adoptive parents in the event the child is not yet free for adoption:

- a) Information about the child's biological parents, which shall include:
 - 1) age of the biological parents;
 - 2) their race, religion, cultural and ethnic backgrounds;
 - 3) general physical appearance;
 - 4) their education, occupation, hobbies, interests and talents;
 - 5) existence of any other children born to the biological parents, including the first names and ages of the adopted child's siblings and additional identifying information with appropriate consents;
 - 6) information about biological grandparents, reason for immigrating into the United States, and country of origin;
 - 7) relationship between biological parents; and
 - 8) detailed medical and mental health history of the biological parents and their immediate relatives as described in subsection (c) below.
- b) Information about the child, which shall include:
 - 1) identifying information which includes name, birth date, place of birth, order of birth, race, sex, physical description;
 - 2) developmental history which includes prenatal, delivery, postnatal, age at which significant milestones were achieved, and significant deficiencies or problems;
 - 3) education, which includes:
 - A) schools attended, grade level, type of program, present level of functioning, and current teacher;
 - B) special problems in school; and
 - C) the child's perception of his or her school experience;
 - 4) information about the child's personality and behavior, which includes:
 - A) how the child presents him/herself to the worker;
 - B) behavior problems, acting-out, delinquency;
 - C) family's perception of child, role in family, interaction with parents and siblings, with whom the child relates most often, favorite parent or sibling, least favorite parent or sibling, who disciplines, how each child perceives his/her role in the family;
 - D) child's strengths, interests, skills;
 - E) religious/cultural beliefs of the child; and
 - F) child involvement with the agency, including child's perception and involvement with other agencies, and the legal system;
 - 5) placement history, which includes:

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- A) reasons and date the child came into placement;
- B) information as to why the child was unable to return to his/her family of origin;
- C) number of placements the child has experienced since he/she has been in the care of the Department and reasons for each move; and
- D) information pertaining to any physical or sexual abuse or neglect of which the child was the victim or perpetrator;
- 6) legal status, which includes:
 - A) whether the child is free for adoption;
 - B) whether the placement is a legal risk placement; or
 - C) whether the child has any other legal involvement.
- c) Information about the medical and health histories of the child and the biological parents which shall include:
 - 1) for the child:
 - A) significant illnesses, diseases, disabilities, physicians, medications and immunization records;
 - B) conditions or diseases believed to be hereditary;
 - C) drugs or medications taken by the child's biological mother during pregnancy;
 - D) psychological and psychiatric information;
 - E) any other information that may be a factor influencing the child's present or future physical, mental, or emotional health;
 - 2) for the biological parents:
 - A) chronic and acute illnesses, hospitalizations, general health of grandparents and siblings, alcohol or other drug abuse;
 - B) conditions or diseases believed to be hereditary;
 - C) psychological and psychiatric information;
 - D) any other information that may be a factor influencing the child's present or future physical, mental, or emotional health.
- d) No information provided under this Section shall disclose the names or last known address of the biological parents, grandparents, siblings of the biological parents, or any other relative of the child to be adopted with the exception of siblings as specified in subsection (a)(5).

Section 309.160 Post-Placement Services

- a) Purpose of Post-Placement Services

Post-placement services are services provided to the child and adoptive family from the date of placement of the child in the adoptive home to the date of finalization of the adoption for the purpose of:

 - 1) continuing the activities around the preparation of the child for adoption;

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- 2) ensuring the health and safety of the child;
- 3) ensuring successful integration of the child in the adoptive home;
- 4) providing continuing support and placement stabilization in order to minimize the risk of placement disruption and multiple placements of the child; and
- 5) facilitating adoption finalization.

b) Services Provided

During the post-placement period, the primary services the Department will provide are those activities that are directed toward:

- 1) Empowerment of the Adoptive Family
The Department or adoption agency will help the family recognize successes, understand the stages of adjustment, and assume a decision making role on behalf of the child.
- 2) Continued Assessment of the Child and Family
The Department or adoption agency will continue to assess the child and family after placement has occurred to ensure that all existing and potential needs have been identified, and appropriate support services are in place prior to finalization.
- 3) Assessing Adjustment of the Family and Child to the Placement and Providing Supportive Services
The services provided by the Department or adoption agency will be related to the needs of the adoptive family and the special needs of the adopted child, particularly if the child is older, has medical conditions, or physical, mental, or emotional disabilities, or is of a different ethnic, racial, or cultural background than the adoptive family. The assessment will explore the level of attachment occurring within the adoptive family and will utilize specific activities designed to promote and enhance attachment.
- 4) Further Discussion of the Child's Background Information
The Department or adoption agency will encourage discussion of the child's background to include specific behaviors exhibited by the child in order to ensure their understanding and acceptance.
- 5) Predicting and Interpreting Behaviors and Problem Solving
The Department or adoption agency will provide information relating to potential behaviors which may be exhibited by the child and assist the family in dealing with specific behaviors and problems that may arise.
- 6) Identification of Resources
The Department or adoption agency will make reasonable efforts to ensure that services are accessible and that referrals have been made where appropriate.
- 7) Completion of Necessary Finalization Papers and Reports
Information relating to the finalization of the adoption is provided to the family and efforts are directed toward completing all necessary reports required prior to finalization.
- 8) Disruption Services

Although the goal of post-placement services is to maintain the adoptive placement, it may be necessary to provide disruption services when it has been determined that continuation of the placement is not in the best interest of the child and family and removal is necessary.

- c) The Department or adoption agency will schedule regular in-person contacts with the family and child following placement until the adoption is finalized.

- d) The length of time between placement and legal adoption may vary due to the uniqueness of each situation, but will extend for at least six months unless waived by the court. The actual length of time shall be determined jointly between the worker, the court, and the adoptive parents.

Section 309.170 Post-Adoption Services

a) Purpose of Post-Adoption Services

Services after adoption of a child are often essential in maintaining the adoptive family unit and empowering families to be advocates in the community for their children's needs. Consequently, the Department will provide post-adoption services in order to reduce the risk of adoption dissolution and to support the goal of permanency in adoption.

b) Post-Adoption Services

The Department provides the following post-adoption services either directly or through purchase of service providers:

- 1) Adoption preservation services will be provided to families with adopted children under age 18. These services are provided in accordance with 89 Ill. Adm. Code 302 (Services Delivered by the Department) Subpart D: Intensive Family Preservation Services, and through other contracts with service providers.
- 2) Services to families receiving adoption assistance as described in 89 Ill. Adm. Code 302.310 (Adoption Assistance). These services include:
 - A) assisting families to utilize and access services available to them through adoption assistance;
 - B) assisting adoptive parents of children with developmental disabilities to access services available through the Illinois Department of Human Services;
 - C) assisting families who are eligible for conditional adoption assistance to access benefits at such time as their children's condition warrants treatment or professional intervention.
- 3) Search and on-going sharing of information among members of the adoption triad. This service includes:
 - A) providing to adults who had been the legal responsibility of the Department or to biological families of adult adoptees adopted through the Department, when they have requested

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Information in writing:

- i) non-identifying information regarding their biological background when requested;
 - ii) attempts to locate biological family members for purposes of updating social history and/or medical information, if desired;
 - iii) identifying information upon the successful completion of a search, when notarized consents from all birth parents and adult adoptees are received. The Department will provide names, addresses, and telephone numbers so that they may arrange a reunion provided that notarized consents from all birth parents and adult adoptees are received;
 - iv) updated medical and psychosocial information between members of the adoption triad, when notarized consents from all birth parents and adult adoptees have been received.
- B) acting as or cooperating with confidential intermediaries appointed by the court in accordance with the Adoption Act [750 ILCS 50/18.3a]. In addition, the Department will maintain a list of confidential intermediaries who have been trained and certified by the Department.
- C) providing to adoptive parents of minor children, if requested, non-identifying information on a child's background, if this information is available. The Department will also facilitate the exchange of updated medical and psychosocial information between members of the adoption triad and facilitate contact when members of the triad have signed notarized consents.
- D) facilitating contact between adoptees and their siblings when one or more is still in the Department's care or adopted elsewhere with the notarized consent of the adoptive parents of a minor child.
- E) facilitating contact, with the notarized consent of the adoptive parents, between adoptees who are minors and significant relationships in the minor adoptee's past when such contact has been established to be necessary to the adoptee's best interests, when all involved parties have provided written notarized consent for release of such identifying information.
- 4) Information and referral to services available in the community which would be of benefit to the adoption triad. These services would include, but not be limited to: adoption preservation services, therapists sensitive to the issues of adoption, education advocates to assist families to obtain special services, mental health agencies, support groups, respite care, financial services and professional search groups. The Department, through its agent, will maintain a listing of

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post-adoption services and will make this information available to persons upon request.

- 5) The Department will also provide to any interested adult adoptee, biological parents and siblings information regarding the Illinois Adoption Registry described in Section 309.190 of this Part.

c) Who is Eligible for Post-Adoption Services

Post-adoption services are available to:

- 1) Families who have adopted children for whom the Department of Children and Family Services had legal responsibility immediately preceding the adoption. These families are eligible for the services described in subsections (b)(1), adoption preservation services, (b)(2), adoption assistance, if they meet eligibility criteria, (b)(3), search and ongoing sharing of information, and (b)(4), information and referral.
- 2) Families who adopt children for whom the Department did not have legal responsibility prior to adoption. These families are eligible for the services described in subsection (b)(1), adoption preservation services, if sufficient financial resources exist after adoption preservation services are provided to children for whom the Department of Children and Family Services had been legally responsible, and subsection (b)(4), information and referral.
- 3) Biological families of children adopted through the Department. These families are eligible for the services described in subsections (b)(3), search and ongoing sharing of information, and (b)(4) information and referral.

Section 309.180 Adoption Assistance

Adoption assistance may be provided to adoptive parents on behalf of children with special needs in accordance with 89 Ill. Adm. Code 302.310 (Adoption Assistance).

Section 309.190 Adoption Registry

- a) Effective with the establishment of an Adoption Registry under the auspices of the Department of Public Health, the Department of Children and Family Services shall provide information about Adoption Registry services. The address of the Adoption Registry is as follows:

The Adoption Registry
Illinois Department of Public Health
605 W. Jefferson
Springfield, Illinois 62702-6553
(217) 782-6553

- b) The services shall consist of:

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- 1) providing written notification to the biological parents who wish to surrender a child for purposes of adoption or wish to consent to the adoption of a child by a specified person which describes the Adoption Registry, the process for recording their names with the Adoption Registry, the procedures for sharing identifying information with the child who was surrendered for adoption or given consent to be adopted by a specified person, and the process for changing the decision to share or refuse to share identifying information;
- 2) helping the biological parents complete a written statement of intent when a child is voluntarily surrendered for purposes of adoption or given consent to be adopted by a specified person. The statement shall record:
 - A) the biological parents' desire to have identifying information shared with the adopted child at a later date and a method for contacting the biological parents; or
 - B) the biological parents desire not to have identifying information revealed; or
 - C) that no decision has been reached at this time;
- 3) helping the biological parents record their names with the Adoption Registry for the purpose of sharing identifying information with their biological children who were surrendered for adoption or given consent to be adopted by a specified person;
- 4) helping the adopted child, when the child has attained the age of 18, but not yet reached his or her 21st birthday, to record his or her name with the Adoption Registry for the purpose of sharing identifying information with his or her biological parents provided the Registry has the written consent of:
 - A) both adoptive parents, or
 - B) a single adoptive parent with a certified copy of the Judgement of Adoption, or
 - C) proof of the death of one adoptive parent and written consent of the surviving adoptive parent, or
 - D) consent of the guardian of the adoptee with a certified copy of the Order of Guardianship;
- 5) recording specific non-identifying information about the biological parents as required by the Adoption Act [750 ILCS 50/18.4] in the case record. This information shall be given to the prospective adoptive parents when the child is placed for adoption and to the adopted child, upon request, when the child has attained the age of 18, provided by Registry has received the written consent of those specified above in subsections (b)(4)(A) through (D), if the child has not reached his or her 21st birthday;
- 6) providing identifying information to mutually consenting parties when a written request is received by the Department of Children and Family Services. If there is an Information Exchange

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- Authorization form on file with the Adoption Registry, this form also must permit the exchange of such information; and
- 7) other services as authorized by 89 Ill. Adm. Code 302.40, Department Service Goals.

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- 1) Heading of the Part: Services Delivered by the Department
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3)

| | |
|-------------------------|------------------------|
| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
| 302.300 | Repeal |
| 302.305 | Amend |
| 302.315 | Repeal |
- 4) Statutory Authority: 20 ILCS 505;750 ILCS 50
- 5) Effective Date of Amendments: May 15, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) Date filed in Agency's Principle Office: May 15, 1998
- 9) Notice of proposal published in Illinois Register: May 30, 1997, 21 Ill. Reg. 6375
- 10) Has JCAR issued a Statement of Objections to these rule(s)? No
- 11) Difference between proposal and final version: No changes were made to the proposed version.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these rules replace an emergency rule currently in effect? No
- 14) Are there any proposed amendments to this Part pending? No
- 15) Summary and Purpose of These Adopted Rules: The Department is repealing Sections 302.300 and 302.315 because the subject matter contained in the two Sections has been incorporated into new Part 309, Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible, which is being adopted at the same time as these amendments. Section 302.305, Adoption Listing Service for Hard to Place Children or Children with Disabilities, is being limited in its application to children for whom the Department is not legally responsible. Requirements for an adoption listing service for children who are the legal responsibility of the Department are contained in the new Part 309.

- 16) Information and questions regarding these adopted ruled shall be directed to:

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Jerry B. Crabtree
Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715

The full text of the adopted rules begin on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER a: SERVICE DELIVERY

PART 302

SERVICES DELIVERED BY THE DEPARTMENT

SUBPART A: GENERAL PROVISIONS

Section
 302.10
 302.20
 302.30
 302.40
 302.50

Purpose
 Definitions
 Introduction
 Department Service Goals
 Functions in Support of Services

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section
 302.100
 302.110
 302.120
 302.130
 302.140

Reporting Child Abuse or Neglect to the Department (Recodified)
 Content of Child Abuse or Neglect Reports (Recodified)
 Transmittal of Child Abuse or Neglect Reports (Recodified)
 Special Types of Reports (Recodified)
 Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
 Delegation of the Investigation (Recodified)
 The Investigative Process (Recodified)
 Taking Children Into Temporary Protective Custody (Recodified)
 Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
 Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section
 302.300
 302.305

Adoptive Placement Services (Repealed)
 Adoption Listing Service for Hard-to-Place Children or Spectat--Needs
 Children with Disabilities for Whom the Department is Not Legally Responsible

302.310
 302.311
 302.315
 302.320
 302.330
 302.340
 302.350
 302.360
 302.370

Adoption Assistance Agreements
 Nonrecurring Adoption Expenses (Repealed)
 Adoption Registry (Repealed)
 Counseling or Casework Services
 Day Care Services
 Emergency Caretaker Services
 Family Planning Services
 Health Care Services
 Homemaker Services

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302.380 Information and Referral Services
 302.390 Placement Services (Repealed)
 302.400 Successor Guardianship
 302.405 Subsidized Guardianship Program

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section
 302.500
 302.510
 302.520
 302.530
 302.540

Purpose
 Implementation of the Family Preservation Act
 Types of Intensive Family Preservation Services
 Phase In Plan for Statewide Family Preservation Services
 Time Frames

APPENDIX A Acknowledgement of Mandated Reporter Status (Recodified)
 APPENDIX B Calculating the Amount of Adoption Assistance

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C.A. 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired on July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1003, effective January 1, 1997, for a

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maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 8800, effective MAY 15 1998.

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section 302.300 Adoptive Placement Services (Repealed)

- a) Adoptive placement services are provided to children for whom family preservation or reunification efforts are unsuccessful or inappropriate. The child's need for a stable, nurturing and permanent home which meets the physical and emotional needs and best interests of the child is the paramount factor which shall be considered when selecting an adoptive resource. The constitution of adoptive placement services includes:
- 1) placement of the child and arranging for adoption assistance, if indicated; and
 - 2) supervisory visits to evaluate the child's adjustment in the adoptive home prior to the legal finalization of the adoption; and
 - 3) ongoing counseling after finalization of adoption. This counseling is provided at the family's request for up to 3 months. However, it may be provided for a longer period if the family wants it and the Department determines that additional counseling is needed.
- b) The child's needs and best interests shall be the primary consideration when exploring adoptive resources for a child. When selecting an adoptive placement for a child, the factors to be considered may include but are not limited to:
- 1) the wishes of the child who demonstrates the maturity and cognitive ability to participate in the decision;
 - 2) the physical, mental, and emotional needs of the child;
 - 3) the child's need for stability and continuity of relationship with parent figures;
 - 4) the interaction between the child and the prospective adoptive parent;
 - 5) the prospective adoptive parent's ability to meet the physical, mental and emotional needs of the child; and
 - 6) the child's cultural, ethnic and racial background and the ability of prospective adoptive parents to meet the needs of a child with this background.
- c) Single parent adoptive placements are considered viable adoptive resources for children where the children's needs can be met by placement with a single parent.
- d) When there is documentation that a child's developmental and emotional

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needs for continuity of care or stability can be met best through adoption by the current caretaker(s); the planning should proceed to adoption finalization.

- e) Court-ordered adoptive home studies shall be conducted by the Department for adoptions arranged by entities other than child welfare agencies only when the order emanates from an Illinois Court.

(Source: Repealed at 22 Ill. Reg. 6803, effective MAY 15 1998)

Section 302.305 Adoption Listing Service for Hard-to-Place Children or Special Needs Children with Disabilities for Whom the Department is Not Legally Responsible

- a) The Department or its agent shall maintain coded listings which include:

- 1) the names and addresses of all persons who have applied for and have been approved for the adoption of a hard-to-place child or special-needs child with a disability; and
- 2) the names of hard-to-place children or children with disabilities special-needs children as specified in Section 302.310(b) below who have not been placed for adoption.

- b) Adoption agencies who provide services to children who are not the legal responsibility of the Department are encouraged to voluntarily submit the names and addresses of all persons who have been approved for the adoption of hard-to-place children or children with disabilities the applicants and the names of such children to the Department's agent, Adoption Information Center of Illinois, for inclusion in the coded listing. The address and phone number of the Adoption Information Center is: The Department shall provide for address and phone number of the Adoption Information Center of Illinois to all inquirers.

Adoption Information Center of Illinois

188 W. Randolph, Suite 600

Chicago, Illinois 60601

(800) 572-2390

- e) The Department or its agent shall make the coded listings available without charge to every adoption agency in the state in a format which, in accordance with 89 Ill. Adm. Code 431, protects the confidentiality of the persons seeking to adopt and of the child not yet placed for adoption.

(Source: Repealed at 22 Ill. Reg. 8803, effective MAY 15 1998)

Section 302.315 Adoption Registry (Repealed)

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- a) Effective with the establishment of an Adoption Registry under the auspices of the Department of Public Health, the Department of Children and Family Services shall ensure the provision of specific Adoption Registry services:
- b) the services shall consist of:
- 1) providing written notification describing the Adoption Registry process and services available to the biological parent or parents who wish to surrender a child for purposes of adoption; the process includes recording the parent(s) names with the Adoption Registry; procedures for sharing identifying information with the child who was surrendered for adoption; whether adopted or not; and the process for changing the decision to share or refuse to share identifying information;
 - 2) helping the biological parent or parents complete a written statement of intent when a child is voluntarily surrendered for purposes of adoption; the statement shall record:
 - A) the biological parent or parents desire to have identifying information shared with the child at a later date; and a method for contacting the biological parent or parents; or
 - B) the biological parent or parents desire not to have identifying information revealed; or
 - C) that no decision has been reached at this time;
 - 3) helping the biological parent or parents record their names with the Adoption Registry for the purpose of sharing identifying information with their biological children who were surrendered for adoption;
 - 4) helping the adopted or unadopted child, when the child has attained the age of 18, record his or her name with the Adoption Registry for the purpose of sharing identifying information with his or her biological parents;
 - 5) recording specific non-identifying information about the biological parents as required by "AN ACT in relationship to the adoption of persons, and to repeal an act therein named" (Ill. Rev. Stat., 1980 Supp., ch. 40, par. 1522.4) in the case record; this information shall be given to the prospective adoptive parents when the child is placed for adoption and to the adopted or unadopted child, upon request, when the child has attained the age of 18; and
 - 6) providing identifying information to mutually consenting parties when a written request is received by the Department of Children and Family Services; if there is an information exchange Authorization form on file with the Adoption Registry, this form also must permit the exchange of such information; and
 - 7) other services as authorized by Section 302.48.

(Source: Repealed at 22 Ill. Reg. 8803, effective May 13 1998)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Telephone Assistance Programs

- 2) Code Citation: 83 Ill. Adm. Code 757

| Section Numbers: | Adopted Action: |
|------------------|-----------------|
| 757.10 | Amendment |
| 757.100 | Amendment |
| 757.105 | Amendment |
| 757.110 | Amendment |
| 757.115 | Amendment |
| 757.120 | Amendment |
| 757.125 | Amendment |
| 757.130 | Amendment |
| 757.200 | Amendment |
| 757.205 | Amendment |
| 757.210 | Amendment |
| 757.215 | Amendment |
| 757.220 | Amendment |
| 757.225 | Amendment |
| 757.235 | Amendment |
| 757.240 | Repealed |
| 757.245 | Amendment |
| 757.400 | New Section |
| 757.405 | New Section |
| 757.410 | New Section |
| 757.415 | New Section |
| 757.420 | New Section |
| 757.425 | New Section |
| 757.430 | New Section |
| 757.Exhibit A | Amendment |
| 757.Exhibit B | Amendment |
| 757.Exhibit C | Amendment |
| 757.Exhibit D | Amendment |
| 757.Exhibit E | Amendment |

- 4) Statutory Authority: Implementing Sections 13-301 and 13-301.1 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-301, 13-301.1 and 10-101].

- 5) Effective Date of Amendments: May 9, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? Yes, Joint Committee on Administrative Rules approval form not necessary.

- 8) Date Filed in Agency's Principal Office: May 6, 1998

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ILLINOIS COMMERCE COMMISSION

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9) Notice of Proposal Published in Illinois Register: December 19, 1997, 22 Ill. Reg. 16212

10) Has Joint Committee on Administrative Rules issued a Statement of Objections to these amendments? No

11) Difference(s) between proposal and final version: Throughout the amendments, the date "May 7" has been changed to "October 1" for all the incorporations by reference.

In the definition of "Lifeline," "Section 757.100" is changed to "Section 757.400".

In the definition of "Proxy Program(s)", add "public" after "federal". Also add "Program" after "Assistance".

In Section 757.100(b), add "as specified in Section 757.125" after "subscriber".

In Section 757.115(b), replace "in the form of Exhibit B of this Part" with "containing the information specified in Exhibit E of this Part".

In Section 757.125(a), replace "the eligibility provisions specified in Section 757.425 shall apply." with "Eligible new subscribers shall be eligible for Link Up."

Section 757.225 is not being repealed. Language is replaced with the following:

- "a) In order to be eligible to receive benefits under the UTSAP Program described in Subpart C, an individual must participate in a proxy program as defined in this Part.
- b) Benefits available under the UTSAP program shall be applied to one access line only at the principal place of residence of the eligible new subscriber.
- c) UTSAP benefits shall be delivered in the name of the qualifying low-income subscriber.
- d) Applicants will sign a form containing the information specified in Exhibit E, certifying under penalty of perjury that the individual receives benefits from one of the proxy programs, identifying the program or programs from which that individual receives benefits, and agreeing to notify the local exchange company if that individual ceases to participate in the program or programs."

In Section 757.425(b), replace "B" with "E".

In Section 757.430(a), replace "in the form attached as Exhibit B" with

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"containing the information specified in Exhibit E".

In Section 757.430(d)(3), replace "A" with "D".

In the title of Exhibit E, insert "ELIGIBLE TELECOMMUNICATIONS CARRIERS" before "LINK UP".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: These amendments are necessary to comply with the rules of the Federal Communications Commission's rules on universal service support for low income customers that were adopted pursuant to the federal Telecommunications Act of 1996.

16) Information and questions regarding these adopted amendments shall be directed to:

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217)785-3922

The full text of the Adopted Amendments begins on the next page:

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TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 757
TELEPHONE ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

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757.10
757.15

Definitions
Dispute Procedures

SUBPART B: LINK UP BEEPING-CONNECTION-ASSISTANCE PROGRAM

Section
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Link Up Service Requirement
Link Up Recovery Mechanism
Link Up Publicity
Link Up Application Procedure and Processing
Link Up Filing Requirements
Link Up Eligibility
Income Certification

SUBPART C: UNIVERSAL TELEPHONE SERVICE ASSISTANCE PROGRAM

Section
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757.245

Service Requirement
UTSAP Funding
UTSAP Recovery
UTSAP Administrator
UTSAP Contribution Solicitation and Program Publicity
UTSAP Eligibility
UTSAP Application Procedure and Processing
UTSAP Income Certification
Recertification (Repealed)
UTSAP Filing Requirements

SUBPART D: STAFF LIAISON

Section
757.300

Staff Liaison

SUBPART E: LIFELINE SERVICE

Section
757.400
757.405

Lifeline Service Requirement
Lifeline Recovery Mechanism

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757.410 Lifeline Publicity
757.415 Lifeline Application Procedures and Processing
757.420 Lifeline Filing Requirements
757.425 Lifeline Eligibility
757.430 Income Certification and Recertification

EXHIBIT A LEC Quarterly Report to Commission
EXHIBIT B Monthly LEC Waiver Supplemental Installation Charge and Costs/Contributions Report Reporting-Form
EXHIBIT C Quarterly UTSAP Administrator Report to Commission
EXHIBIT D Lifeline BESWP Recertification Ineligibility Notice
EXHIBIT E Link Up/Lifeline Telephone--Assistance Programs Certification Form

AUTHORITY: Implementing Sections 13-301 and 13-301.1 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-301, 13-301.1, and 10-101].

SOURCE: Adopted at 13 Ill. Reg. 14366, effective October 1, 1989; amended at 14 Ill. Reg. 17923, effective October 15, 1990; emergency repealer at 15 Ill. Reg. 5082, effective March 25, 1991, for a maximum of 150 days; repealed at 15 Ill. Reg. 11929, effective August 12, 1991; adopted at 16 Ill. Reg. 17981, effective December 15, 1992; amended at 20 Ill. Reg. 15257, effective December 1, 1996; emergency amendments at 21 Ill. Reg. 16416, effective December 10, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 6810, effective MAY 09 1998.

SUBPART A: GENERAL PROVISIONS

Section 757.10 Definitions

For the purpose of this Part:

"Act" means the Public Utilities Act [220 ILCS 5].

"Administrator" means the entity that administers the Federal Communications Commission's (FCC) universal service support mechanisms in accord with 47 CFR 54, subpart H, as of October 1, 1997. This incorporation does not include any later amendments or editions.

"Commission" means the Illinois Commerce Commission.

"Customer service center" means any office, operated by a local exchange carrier, where applications for service can be made in person.

"Department" means the Illinois Department of Public Aid.

"Eligible new subscriber" is an applicant for local exchange service

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who meets the eligibility guidelines set forth in Section 757.425. As used in this Part, a subscriber who meets the eligibility criteria set forth in Section 757.425 who relocates his principal place of residence is also an eligible new subscriber 757.425-with-respect-to Subpart-B-and-Section-757.225-with-respect-to-Subpart-E.

"Eligible subscriber" is any individual currently subscribing to local exchange service who meets the eligibility guidelines set forth in Section 757.425 with-respect-to-Subpart-B-and-Section-757.225-with-respect-to-Subpart-E.

"Eligible telecommunications carrier" has the meaning given to it at 47 CFR 54.5 as of October 1, 1997. This incorporation does not include any later amendments or editions.

"Installation charge" means those tariffed charges assessed for connecting an eligible new subscriber to the network. These charges do not include security deposit requirements.

"LEC" means "local exchange carrier", which is a telecommunications carrier providing local service as defined in Section 13-204 of the Act [220 ILCS 5/13-204].

"Bifurcated-connection--assistance-program"--or "Lifeline" means the bifurcated local service offering defined and bifurcated-connection assistance-program established at 47 CFR 54.401 et seq., as of October 1, 1997, 47-CFR-36-701-et-seq.-as-of-October-17-1995, and in which all Illinois eligible telecommunications carriers BBEs shall participate as provided in Section 757.400 757.100. This incorporation does not include any later amendments or editions.

"Link Up Program" or "Link Up" means the Link Up Assistance program defined and established at 47 CFR 54.411 et seq., as of October 1, 1997, and in which all Illinois eligible telecommunications carriers shall participate as provided in Section 757.100. This incorporation does not include any later amendments or editions.

"Local exchange service obligation" means those tariffed charges assessed on a monthly basis for access to the network. These charges do not include taxes.

"Local-Exchange-Service-Obligation-Waiver-Program"-or-"BESOWP"--means that-part-of-the-Universal-Telephone-Service-Assistance-Program described-in-Section-757.200(c)(2).

"Medical-card" is a card issued by the Department which certifies that the holder is a participant in a proxy program.

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"NEBA"--means-the-National-Exchange-Carrier-Association-established-at 47-CFR-69-601-et-seq.-as-of-October-17-1995.

"Program" or "plan" means the telephone assistance programs offered by LECs and eligible telecommunications carriers under this Part in which all Illinois BBEs shall participate-as-provided-in-Sections-757.100 and-757.200.

"Proxy Program(s)" include the following assistance programs, as identified in 47 CFR 54.409(b) as of October 1, 1997: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; or Low-Income Home Energy Assistance Program. This incorporation does not include any later amendments or editions administered-by-the-Department-Aid-to-Families-with-Dependent Children-(AFDC); Aid-to-the-Aged-Blind-and-Disabled-(AABB);--General Assistance-(GA);--City-of-Chicago-only;--Refugee/Repatriate-Programs (RRA);--Medical-Assistance-(excluding-medical-extension-cases-and-spend down-cases);--and-Food-Stamps.

"Qualifying low-income subscriber" has the meaning given to it at 47 CFR 54.400 as of October 1, 1997. This incorporation does not include any later amendments or editions.

"Staff" means individuals employed by the Illinois Commerce Commission.

"Toll blocking" is a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel and has a meaning consistent with 47 CFR 54.400 as of October 1, 1997. This incorporation does not include any later amendments or editions.

"Toll control" is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle, and has a meaning consistent with 47 CFR 54.400 as of October 1, 1997. This incorporation does not include any later amendments or editions.

"Toll limitation" means both toll blocking and toll control.

"UTSAP" means the Universal Telephone Service Assistance Program in which all Illinois LECs shall participate as provided in Section 757.200.

"UTSAP Administrator" is the Illinois not-for-profit corporation responsible for the administration of the UTSAP as described in Section 757.215.

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"Waiver" means any reduction in a participant's initial telephone service installation charge or local exchange service obligation in the amount established under the provisions of this Part.

(Source: Amended at 22 Ill. Reg. 8810, effective MAY 09 1998)

SUBPART B: LINK UP BIFELINE-CONNECTION-ASSISTANCE PROGRAM

Section 757.100 Link Up Service Requirement

- a) No later than January 1, 1998, each eligible telecommunications carrier within 90 days from the date this program receives Federal Communications Commission (FCC) certification, each BBE shall participate in the "Link Up" "Bifeline-Connection-Assistance" program adopted by the FCC in 47 CFR 54.411 EPR-96-701 et seq. as of October 1, 1997 October 1, 1995. This incorporation does not include any later amendments or editions.
- b) As part of its participation in the program identified in subsection (a), each eligible telecommunications carrier the BBEs shall implement a low-income assistance program characterized by a 50% waiver, of up to \$30.00, of the initial telephone service installation charge. The waiver shall be applicable to the primary service order, central office and premise visit components of the service connection charges and shall be provided to each qualifying low-income eligible new subscriber as specified in Section 757.125.
- c) In addition, each eligible telecommunications carrier the BBEs shall offer any qualifying low-income eligible new subscriber the opportunity to enter into a deferred payment arrangement for the remaining installation charges, up to \$200. Eligible new subscribers shall be given no more less than one year six months to retire the remaining installation charges, and the eligible telecommunications carrier BBE shall refrain from applying interest charges to such amounts for such period.

(Source: Amended at 22 Ill. Reg. 8810, effective MAY 09 1998)

Section 757.105 Link Up Recovery Mechanism

Costs incurred as a result of providing service under Section 757.100 shall be recovered in the following manner:

- a) The eligible telecommunications carrier BBEs shall recover the entire amount of the installation charge waivers provided to all qualifying low-income eligible new subscribers from funds provided by the Administrator NECA through the Link Up Program Bifeline-Connection Assistance-Program.
- b) The eligible telecommunications carrier BBEs shall recover all

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interest charges, up to \$200, waived as a result of deferred payment arrangements, as provided in Section 757.100(c), on these charges not covered by the installation waiver from funds provided by the Administrator NECA through the Link Up Program Bifeline-Connection Assistance-Program.

(Source: Amended at 22 Ill. Reg. 8810, effective MAY 09 1998)

Section 757.110 Link Up Publicity

Eligible telecommunications carriers BBEs shall publicize the Link Up Program in all exchanges. Publicity shall include, but not be limited to:

- a) On an ongoing basis, at least once each calendar quarter, each eligible telecommunications carrier will advertise its Link Up Program. These advertisements may appear in press releases, brochures, bill inserts, the telecommunications carrier's publications, newspapers, radio, television and/or any other suitable means in the eligible telecommunications carrier's service territory. Periodic news releases promoting the program employing radio, television or newspapers in each BBE's service territory. Such releases shall occur once every three months during the first year of the plan, and at least once a year thereafter.
- b) Each eligible telecommunications carrier's directory shall include an explanation of its Link Up Program. Written notification of the program to the agency directors of the Illinois Department of Public Aid, the Illinois Department of Aging, and the Illinois Department of Children and Family Services, along with a request to publicize the program.
- c) Each eligible telecommunications carrier will provide written notification of the Link Up Program to the directors of municipal, State, and federal government agencies within the eligible telecommunications carrier's service territory whose clientele is likely to benefit from the program. Such notification shall be provided within 30 days after the inception of the program or a change in benefits under the program. Information to be provided shall include, as a minimum, the program offered, descriptions of the intended recipients of the program, the terms under which the program is available, and directions on how and where to apply.
- d) Eligible telecommunications carriers may at any time be required to provide proof of their advertising practices to the Commission.

(Source: Amended at 22 Ill. Reg. 8810, effective MAY 09 1998)

Section 757.115 Link Up Application Procedure and Processing

- a) Eligible telecommunications carriers BBEs shall be responsible for

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processing all Link Up Lifeline applications.

b) Link Up Lifeline application forms, containing the information specified in Exhibit E of this Part, shall be made available at all eligible telecommunications carrier's BBE customer service centers and by mail.

c) Presentation of a current medical card by an applicant upon completion of the Lifeline application shall constitute proof of income eligibility. Further certification by the Department shall not be required.

(Source: Amended at 22 Ill. Reg. 8810 effective MAY 09 1988)

Section 757.120 Link Up Filing Requirements

a) Within ten days after the effective date of this amendment, eligible telecommunications carriers 90 days after the effective date of this Part-BBEs shall file with the Commission a tariff pursuant to Section 13-501 of the Act for the provision of the Link Up Lifeline 50% waiver of the subscriber installation charge and deferred payment arrangements as provided in Section 757.100(e).

b) Each eligible telecommunications carrier BBE shall maintain the data and information necessary to provide the information required in Exhibit A. Quarterly reports providing the information specified in Exhibit A shall be filed with the Chief Clerk of the Commission and the UTGAP Administrator within 30 days after each calendar quarter's end. In addition, eligible telecommunications carriers BBEs shall maintain supporting documentation in such a manner as to be able to readily identify the expenses detailed in Section D of Exhibit A in appropriate subaccounts. (See 83 Ill. Adm. Code 710.)

(Source: Amended at 22 Ill. Reg. 8810 effective MAY 09 1988)

Section 757.125 Link Up Eligibility

a) Eligible new subscribers shall be eligible for Link Up. In order to be eligible to receive benefits under the Lifeline Connection Assistance program described in this Subpart B by an individual must:

1) Participate in a proxy program as defined in this Part;
2) Not be a dependent for federal income tax purposes unless the applicant is more than 60 years of age (see 26 U.S.C. 152).

b) Benefits available under the Link Up Lifeline Connection Assistance program shall be applied to one access line only at the principal place of residence of the eligible new subscriber. Eligible telecommunications carriers may not limit the number of connections per year for which a single customer who relocates may receive Link Up support.

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c) Link Up Lifeline Connection Assistance program benefits shall be delivered in the name of the qualifying low-income subscriber individual receiving assistance from one of the proxy programs defined in Section 757.10.

(Source: Amended at 22 Ill. Reg. 8810 effective MAY 09 1988)

Section 757.130 Income Certification

Certification of eligibility shall be determined as provided in Section 757.430(a)-(c).

a) Upon the initiation of the Lifeline Connection Assistance program, the BBEs shall conduct a means testing. Such a means testing shall include a certification card and shall be directed to those individuals receiving assistance from one of the proxy programs defined in Section 757.10. Once an individual receives the certification card, that individual shall be responsible for:

1) Completion of the certification card; and
2) Return of the certification card to the relevant BBE within 90 days from the date of the card's issuance.

b) On an ongoing basis, certification of eligibility shall be determined in the following manner:

1) Where customer service centers exist, certification of eligibility shall be determined by the BBE. In such instances, presentation of a current medical card by the applicant shall be sufficient to confirm income eligibility.

2) The BBEs shall also take applications over the telephone or by letter. In such instances, verification of eligibility by the Department shall be conducted in cooperation with the Department. The applicant shall be solely responsible for establishing eligibility in one or more of the proxy programs through the Department. When BBEs find that an applicant's name is not shown on the Department's master records, the applicant will be advised to contact the Department to verify or establish eligibility.

4) Applications for the installation waiver shall be processed and certified within 14 days from the date the application was received by the BBE.

e) In the event an applicant takes exception to the eligibility status as determined by the BBE, the BBE shall advise the applicant of the proper dispute procedures as outlined in Section 757.17.

(Source: Amended at 22 Ill. Reg. 8810 effective MAY 09 1988)

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- a) ~~Each Within-90-days-after-the-effective-date-of-this-Party--each~~ LEC shall participate in the Universal Telephone Service Assistance Program (UTSAP) as required and authorized by Section 13-301.1 of the Public Utilities Act and as ordered by the Commission. All voluntary contributions received by a LEC under Section 757.205 from the date of initial participation until a determination is made by the Commission under subsection (b) of this Section shall be forwarded to the UTSAP Administrator consistent with the provisions of Section 757.210(d). The UTSAP Administrator shall invest these funds in securities backed by the United States government.
- b) On July 1 of each year, the UTSAP Administrator shall file with the Commission a petition requesting the Commission to determine the amount of supplemental assistance, if any, the LEC ~~BES~~ shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section. The petition shall contain recommendations of the UTSAP Administrator as provided in Section 757.215(e)(5). The Commission may enter an order without a hearing; however, a hearing shall be held if requested by a party or by Staff within 30 days after the date the petition is filed, and a hearing may also be held on the Commission's or the Hearing Examiner's own motion. The Commission shall determine, subject to the availability of funds, the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section.
- c) The UTSAP may provide assistance ~~or, in the case of customers of eligible telecommunications carriers, supplement the assistance provided by the Link Up Lifeline-Connection-Assistance Program as described in Subpart B and/or the Lifeline Program as described in Subpart D through:~~
- 1) ~~a additional~~ waiver of the initial telephone service installation charges ~~beyond-these-provided-in-Section-757-i00(b)~~ for eligible new subscribers, which, in the case of eligible telecommunications carriers, is in addition to that provided in Section 757.100(b);
 - 2) a waiver of all or a portion of the local exchange service obligation of eligible subscribers or eligible new subscribers, which, in the case of eligible telecommunications carriers, is in the form of State Lifeline service support; or
 - 3) a combination of both subsections (c)(1) and (2) above as ordered by the Commission under subsections (b), (d) and (e).
- d) Limitation of ~~eligibility~~ Waiver
- 1) If the Commission determines that a waiver of all or a portion of the local exchange service obligation should be provided by the UTSAP, in the form of State Lifeline service support or otherwise, the Commission may, if it deems necessary, limit eligibility under Section 757.425(a) to:
 - A) one or more of the individual Proxy Programs administered-by

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- ~~the-Department--as~~ identified in the definition of "Proxy Programs" in Section 757.10, or
- B) one or more subprograms within, or components of, an individual Proxy Program.
 - 2) Any proposals to limit eligibility pursuant to this subsection (d) shall be made as part of the petition filed annually under subsection (b) of this Section.
 - 3) The Commission shall adopt a proposal that limits eligibility for the Lifeline Program ~~a-waiver-of-all-or-a-portion-of--the--local-exchange-service--obligation~~ to one or more Proxy Programs or subprograms or components thereof pursuant to this subsection (d) only if it finds that:
 - A) participation in the Proxy Program, subprogram, or component thereof can be verified through inquiry to the facilities maintained-by-the-Department;
 - B) the funds available to the UTSAP from voluntary contributions are sufficient and predictable, so as projected to permit the UTSAP to provide State Lifeline support ~~the-proposed-assistance-by-means-of-a-waiver-of-all-or-a-portion-of-the-local-exchange-service-obligation~~ to all subscribers or all new subscribers within the Proxy Program, subprogram, or component on an ongoing basis;
 - C) the proposal will increase accessibility to telephone service; and
 - D) the proposal adequately considers the needs of and potential benefits to participants in the Proxy Programs; and
 - E) the proposal establishes narrowly targeted qualification criteria that are based solely on income or factors directly related to income, consistent with 47 CFR 54.409 as of October 1, 1997. This incorporation does not include any later amendments or editions.
 - e) The Commission, on its own motion, or based upon a petition filed by the UTSAP Administrator, may order the LECs to temporarily suspend payment of or temporarily reduce the amount of the supplemental assistance provided under the programs set forth in Section 757.200(c), if the total program costs exceed, or will exceed, the funds available from contributions specified in Section 757.205. If the Commission suspends or reduces the amount of payments under this Section, the Commission shall determine, subject to the availability of funds, the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section.

(Source: Amended at 22 Ill. Reg. 8810 effective MAY 9 1998)

Section 757.205 UTSAP Funding

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- a) All funding for UTSAP will be by voluntary contributions.
- b) Customers wishing to participate in the funding of UTSAP may do so by electing to contribute, on a monthly basis, a fixed amount to be included by the LEC on the customer's monthly bill. This contribution shall not reduce the customer's total amount due for telephone services or other charges appearing on the bill.
- c) Residential customers may elect to contribute either \$.50, \$1.00, \$2.00 or \$5.00 per month. Business customers may elect to contribute \$1.00, \$5.00, \$10.00 or \$25.00 per month. Contributions will be collected on a recurring basis each month from the customer's bill remittance and will be reported and transferred to the UTSAP Administrator as specified in Section 757.210(d).
- d) Customers may elect to discontinue or change the amount of the monthly contribution on their bill at any time upon providing at least 30 days notice to the LEC.
- e) LECs shall provide customers the ability and the opportunity to make the elections referred to in subsections (b), (c) and (d) above on the bill inserts required by Section 757.220(a). Sections--757-220(b)--and (c).
- f) Failure by the customer in any month to remit the entire billed amount shall reduce the UTSAP contribution accordingly.
- g) One time or periodic contributions in excess of those amounts shown in subsection (d) above shall be made directly to the UTSAP Administrator.
- h) There are no other funding requirements on any party or individual for UTSAP above and beyond those shown in this Section.
- †† If the Commission determines pursuant to Section 757.200 that a waiver of all or a portion of the local exchange service obligation should be provided by UTSAP, the Commission shall, within 90 days after the Commission's order, file information with the Secretary of the Federal Communications Commission as required by 47-C.F.R.-69.104 to obtain certification of eligibility for a reduction or waiver of the End-User Common-line charge for eligible participants.

(Source: Amended at 22 Ill. Reg. 8810 effective MAY 09 1993)

Section 757.210 UTSAP Recovery

Costs incurred as a result of providing service under Section 757.200 shall be recovered in the following manner:

- a) The LECs shall deduct the waivers provided to participants for local exchange service obligations and any additional waivers of the initial telephone service installation charge as specified in Section 757.200 from the voluntary UTSAP contributions. Each LEC shall forward voluntary UTSAP contributions net of installation waivers and Lifeline BRSWP waivers Provided pursuant to Section 757.200(c) to the UTSAP Administrator.

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- b) The LECs shall be allowed to recover their administrative costs associated with the supplemental assistance portion of the Link Up Program ~~lifeline-connection-assistance-program~~ and with the UTSAP from the voluntary UTSAP contributions. Such administrative costs shall be reported by all LECs to the Commission and the UTSAP Administrator through reports in the form of Exhibit A to this Part and, for LECs with more than 35,000 access lines, to the UTSAP Administrator through reports in the form of Exhibit B to this Part.
- c) Each LEC with more than 35,000 access lines shall report in the form of Exhibit B remitted monthly to the UTSAP Administrator, and shall report quarterly in the form of Exhibit A to the Commission and the UTSAP Administrator. Each LEC with 35,000 or fewer access lines shall report quarterly in the form of Exhibit A to the Commission and the UTSAP Administrator, and shall remit quarterly to the UTSAP Administrator.
- d) The monthly LEC reports to the UTSAP Administrator required of LECs with more than 35,000 access lines shall be in the form of Exhibit B and shall include:
- 1) the total UTSAP contributions billed, less adjustments for previous months UTSAP contributions billed but not collected;
 - 2) the total amount of local exchange service obligations waived;
 - 3) the amount of the additional waivers of the initial telephone service installation charges as specified in Section 757.200; and
 - 4) any allowable administrative expenses incurred as specified in subsection (b) of this Section.
- e) Costs of the UTSAP Administrator and its functions will be recovered from the UTSAP contributions before any other payments are made under the plan.
- f) Subject to its jurisdiction, the Commission may examine at any time the reasonableness of the LEC's costs incurred solely because of participation in UTSAP. If the Commission determines, after notice and hearing, that such expenditures are not reasonable, the LEC shall remit the amounts determined not to be reasonable to the UTSAP Administrator.

(Source: Amended MAY 09 1993 at 22 Ill. Reg. 8810 effective MAY 09 1993)

Section 757.215 UTSAP Administrator

- a) All Illinois LECs shall be members of the Universal Telephone Assistance Corporation (UTAC), an Illinois not-for-profit corporation as defined in the General Not for Profit Corporation Act [805 ILCS 105] that will serve as the UTSAP Administrator. Within 60 days after the effective date of this Part, the LECs shall form the Universal Telephone Assistance Corporation (UTAC), whose members are Illinois BRSWP as an Illinois not-for-profit corporation as defined in the General Not For Profit Corporation Act [805 ILCS 105] to be the UTSAP

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Administrator:

- b) The LECs shall prepare and submit to the Commission for its approval proposed Articles of Incorporation and Bylaws and initial members of a Board of Directors for the UTAC prior to submission to the Secretary of State of the State of Illinois.
- c) The UTAC shall file an application for federal income tax exempt status.
- d) The UTAC Board will consist of 9 members. There shall be three classes of directors: one class consisting of 5 directors who shall be elected from five or more nominations made by the LECs, one class consisting of two directors who shall be elected from two or more nominations made by the Attorney General and the Citizens Utility Board, and one class consisting of two directors who shall be elected from two or more nominations made by the National People's Action, the Community Action for Fair Utility Practices, and the South Austin Coalition Community Council. The directors of all three classes shall be elected by a vote of the members of UTAC.
- e) The responsibilities of the UTAC, as the UTSAP Administrator, shall be:
- 1) to administer a statewide UTSAP pool to which all LECs will report UTSAP contributions and expenses.
 - 2) to collect UTSAP contributions net of installation and Lifeline waivers provided pursuant to Section 757.200(c) BSOWP--waivers and reimburse LECs for their administrative expenses.
 - 3) to make quarterly reports to the Commission as detailed in Exhibit C of this Part.
 - 4) to advise the Commission at any time that the total program costs exceed or will exceed the total contributions, so that the Commission may consider suspending any UTSAP programs or reducing the amount of assistance until such time as there are sufficient funds available to offset the costs.
 - 5) to assess the total UTSAP costs and the total UTSAP revenues and to petition the Commission pursuant to Section 757.200(b) and (d) for the purpose of recommending any changes in the waiver amounts, the establishment of any new UTSAP programs, or the discontinuance of any existing programs.
 - 6) to provide any external promotion and advertising of the Link Up and Lifeline Programs Connection-Assistance-Program and the UTSAP in conformance with or in addition to that specified in Sections 757.110, and Section 757.220 and 757.410.
 - f) The UTAC, with Board approval, may contract with an outside agency to establish and maintain the UTSAP pooling function. The UTAC shall obtain Commission approval of any such contract.
 - g) The UTSAP Administrator shall request bids and seek Commission approval of all contracts exceeding \$10,000.

(Source: Amended 22 Ill. Reg. 8810, effective MAY 09 1998)

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Section 757.220 UTSAP Contribution Solicitation and Program Publicity

- a) All LECs shall publicize the UTSAP to encourage contributions.
- 1) Annually within 90 days after the effective date of this Part, each LEC shall will notify its customers that they may elect to participate in the funding of the UTSAP by electing to contribute, on a monthly basis, a fixed amount to be included in monthly bills until canceled by the customer.
 - 2) b) The customer notification specified in subsection (a)(1) of this Section shall will be in the form of an insert in the customer bill. The bill insert shall mailing will specify fixed monthly amounts from which customers wishing to contribute may choose. In addition, the bill insert shall mailing will contain a phone number, post card or a mailing address that the customer may use to contact the LEC in order to initiate monthly contribution billing.
 - 3) e) On an ongoing basis, at least once each quarter, each LEC shall solicit UTSAP contributions from its the BBS--will--continue--to inform customers that they may contribute to UTSAP through bill inserts, news releases, LEC publications or other suitable means. 4) d) The LEC service representatives will inform customers that they may contribute to UTSAP in connection with on all orders contacts for new service installation or move of service within the LEC's territory.
 - b) Each LEC shall publicize, in all of its exchanges, each program offered by the LEC under this Subpart C at least once each calendar quarter. These advertisements may appear in press releases, brochures, bill inserts, LEC publications, newspapers, radio, television and/or any other suitable means in the LEC's service territory.
 - e) The publicity requirements shown in Section 757.110 will also apply to the UTSAP.

(Source: Amended at 22 Ill. Reg. 8810, effective MAY 09 1998)

Section 757.225 UTSAP Eligibility

- a) In order to be eligible to receive benefits under the UTSAP program described in this Subpart C, an individual must participate in a Proxy program as defined in this Part.
- b) Benefits available under the UTSAP program shall be applied to one access line only at the principal place of residence of the eligible new subscriber.
- c) UTSAP benefits shall be delivered in the name of the qualifying low-income subscriber.
- d) Applicants will sign a form containing the information specified in Exhibit E, certifying under penalty of perjury that the individual

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receives benefits from one of the Proxy Programs, identifying the program or programs from which that individual receives benefits, and agreeing to notify the local exchange company if that individual ceases to participate in the program or programs.

- a) In order to be eligible to receive UTSAP benefits under Section 757.200(c)(1), if such benefits are ordered by the Commission pursuant to Section 757.200(b), an individual must:
- 1) Participate in one of the proxy programs as defined in this Part;
 - 2) Not be a dependent for income tax purposes unless he or she is more than 60 years of age (see 26 U.S.C. 152);
- b) In order to be eligible to receive UTSAP benefits under Section 757.200(c)(2), if such benefits are ordered by the Commission pursuant to Section 757.200(b), an individual must:
- 1) meet the eligibility requirements of (a) above; and
 - 2) participate in the applicable Proxy Program(s) as established by the Commission pursuant to Section 757.200(d).
- c) Any waiver shall be available for one access line only, which shall be at the principal place of residence of the individual receiving assistance from one of the proxy programs set forth in Section 757.10. UTSAP program benefits shall be delivered in the name of an individual receiving assistance from one of the programs set forth in subsection (a)(1) of this Section.
- e) Should a UTSAP program be temporarily suspended at any time existing program participants will retain their eligibility upon resumption of the program subject to the recertification conditions outlined in Section 757.240.

(Source: Amended at 22 Ill. Reg. 8810 effective MAY 09 1998)

Section 757.235 UTSAP Income Certification

- a) The same income certification guidelines as shown in Section 757.430(a), (b), and (c) 757.430 will be applicable for the UTSAP.
- b) The LEC shall place an individual in the UTSAP upon determination of eligibility.

(Source: Amended at 22 Ill. Reg. 8810 effective MAY 09 1998)

Section 757.240 Recertification (Repealed)

Recertification of a participant's eligibility for any EBSWP waiver provided under the UTSAP shall be conducted in the following manner:

- a) EBSs shall be responsible for recertification and shall conduct recertification through inquiry to the facilities maintained by the Department.
- b) Recertification shall be conducted no more than once every six months

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- e) and no less than once a year, if a BE determines upon recertification that a UTSAP participant no longer is eligible, the BE shall provide the participant 30 days notice prior to terminating the participant from the UTSAP. Notice of such a determination shall be provided to the participant in writing and shall provide the information specified in Exhibit B.

(Source: Repealed at 22 Ill. Reg. 8810 effective MAY 09 1998)

Section 757.245 UTSAP Filing Requirements

- a) LECs shall file with the Commission appropriate tariffs for the provision of an additional waiver of the initial telephone service installation charge and/or a Lifeline EBSWP waiver pursuant to order(s) of the Commission under Section 757.200 authorizing such supplemental assistance programs.
- b) LECs shall file with the Commission reports containing the information specified in Exhibit A of this Part, as provided in Section 757.210.
- c) The UTSAP Administrator shall file with the Commission, on a quarterly basis, a report containing the information specified in Exhibit C of this Part.
- d) LECs shall file with the UTSAP Administrator reports containing the information specified in Exhibit B of this Part, as provided in Section 757.210.
- e) The UTSAP Administrator shall file with the Commission copies of the minutes of all meetings of the Board of Directors of UTAC.

(Source: Amended at 22 Ill. Reg. 8810 effective MAY 09 1998)

SUBPART E: LIFELINE SERVICE

Section 757.400 Lifeline Service Requirements

- a) No later than January 1, 1998 each eligible telecommunications carrier shall participate in the Lifeline Program adopted by the FCC in 47 CFR 54.400 et seq. as of October 1, 1997. This incorporation does not include any later amendments or editions.
- b) As part of its participation in the program identified in subsection (a) of this Section, each eligible telecommunications carrier shall implement a low-income assistance program characterized by a reduction of \$1.75 in access line charges for qualifying low-income subscribers. Unless the Commission enters an order under Section 757.200 determining that UTSAP funds shall be used as State Lifeline service support, eligible low-income subscribers of eligible telecommunications carriers will receive monthly support of \$5.25.
- c) Eligible telecommunications carriers shall offer toll limitation

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without charge to all qualifying low-income consumers at the time such consumers subscribe to Lifeline service. If the consumer elects to receive toll limitation, where available, that service shall become part of the consumer's Lifeline service.

- d) Each eligible telecommunications carrier shall file information with the Administrator demonstrating that its Lifeline plan meets the criteria set forth in 47 CFR 54.400 et seq. as of October 1, 1997, and stating the number of qualifying low-income individuals and the amount of State assistance. This incorporation does not include any later amendments or editions.
- e) Eligible telecommunications carriers may not collect a service deposit in order to initiate the Lifeline service, if the qualifying low-income consumer voluntarily elects toll blocking from the carrier, where available. If toll blocking is unavailable, the carrier may charge a service deposit.
- f) Eligible telecommunications carriers may not disconnect Lifeline service for non-payment of toll charges.

(Source: Added at 22 Ill. Reg. 8810, effective MAY 09 1998)

Section 757.405 Lifeline Recovery Mechanism

Costs incurred as a result of providing service under Section 757.400 shall be recovered in the following manner:

- a) The eligible telecommunications carriers shall recover the entire amount of the reduction in access line charges from the Administrator through the Lifeline program.
- b) Support for providing Lifeline shall be provided directly to the eligible telecommunications carrier, based on the number of qualifying low-income consumers it serves, under administrative procedures determined by the Administrator.
- c) Eligible telecommunications carriers shall recover the incremental cost of providing toll blocking and toll control, where available, from the Administrator through the Lifeline program.
- d) An eligible telecommunications carrier's support reimbursement shall not exceed the carrier's standard non-Lifeline rate.

(Source: Added at 22 Ill. Reg. 8810, effective MAY 09 1998)

Section 757.410 Lifeline Publicity

- a) Eligible telecommunications carriers shall publicize the Lifeline Program in all exchanges.

1) On an ongoing basis, at least once each calendar quarter, each eligible telecommunications carrier will advertise its Lifeline Program. These advertisements may appear in press releases,

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brochures, bill inserts, the telecommunications carrier's publications, newspapers, radio, television and/or any other suitable means in the eligible telecommunications carrier's service territory.

- 2) Each eligible telecommunications carrier's directory shall include an explanation of its Lifeline Program.
- 3) Each eligible telecommunications carrier will provide written notification of the Lifeline Program to the directors of municipal, State and federal governmental agencies within the eligible telecommunications carrier's service territory whose clientele is likely to benefit from the program. Such notification shall be provided within 30 days after the inception of the program or a change in benefits under the program. Information to be provided shall include, as a minimum, the program offered, descriptions of the intended recipients of the program, the terms under which the program is available, and directions on how and where to apply.
- 4) Eligible telecommunications carriers may at any time be required to provide proof of their advertising practices to the Commission.

- b) The publicity provisions specified in Section 757.220(b) shall apply to eligible telecommunications carriers' provision of Lifeline service.

(Source: Added at 22 Ill. Reg. 8810, effective MAY 09 1998)

Section 757.415 Lifeline Application Procedures and Processing

The application procedures and processing provisions specified in Section 757.115 shall apply.

(Source: Added at 22 Ill. Reg. 8810, effective MAY 09 1998)

Section 757.420 Lifeline Filing Requirements

Within ten days after the effective date of this Section, each eligible telecommunications carrier shall file with the Commission a tariff pursuant to Section 13-501 of the Act for the provision of Lifeline service, including the reduction of \$1.75 in access line charges as provided in Section 757.400(b).

(Source: Added at 22 Ill. Reg. 8810, effective MAY 09 1998)

Section 757.425 Lifeline Eligibility

In order to be eligible to receive benefits under the Lifeline Program

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described in this Subpart E an individual must:

- Participate in a Proxy Program as defined in this Part.
- In lieu of electronic verification, sign the form attached as Exhibit E certifying under penalty of perjury that the individual receives benefits from one of the Proxy Programs, identifying the program or programs from which that individual receives benefits, and agreeing to notify the eligible telecommunications carrier if that individual ceases to participate in the program or programs.
- Meet additional eligibility criteria, if any, established by the Commission pursuant to Section 757.200(d).

(Source: Added MAY 09 1998 22 Ill. Reg. 8810.27 effective

Section 757.430 Income Certification and Recertification

- Applications containing the information specified in Exhibit E shall be processed and certified by the eligible telecommunications carrier within 14 days after the date the application was received.
- The applicant shall be solely responsible for establishing eligibility in one or more of the Proxy Programs. If an eligible telecommunications carrier finds that an applicant's eligibility cannot be established through the records of a proxy program, the applicant will be advised by the eligible telecommunications carrier to contact the proxy program to establish or verify eligibility.
- In the event an applicant takes exception to the eligibility status as determined by the eligible telecommunications carrier, the eligible telecommunications carrier shall advise the applicant of the proper dispute procedures as outlined in Section 757.15.
- Recertification of a participant's eligibility shall be conducted in the following manner:
 - Eligible telecommunications carriers shall be responsible for recertification.
 - Recertification shall be conducted no less than once a year.
 - If an eligible telecommunications carrier determines upon recertification that a participant is no longer eligible, the eligible telecommunications carrier shall provide the participant 30 days notice prior to terminating the participant. Notice of such a determination shall be provided to the participant in writing, and shall be provided the information specified in Exhibit D.

(Source: MAY 09 1998 22 Ill. Reg. 8810.27 effective

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Section 757.EXHIBIT A LEC Quarterly Report to Commission

EXHIBIT A
Page 1 of 5

Local-Exchange-Company:-----

QUARTERLY REPORT TO THE ILLINOIS COMMERCE COMMISSION

STATUS OF THE LINK UP PIPELINE-CONNECTION-ASSISTANCE PROGRAM

ELIGIBLE TELECOMMUNICATIONS CARRIER:-----

FOR CALENDAR QUARTER ENDING:-----

| A+ | MONTH | APPLICATIONS | INSTALLATION WAIVED | |
|--------------------|-------|----------------------|---------------------|----------|
| | | APPROVED Received | Charges | Interest |
| 1) | _____ | _____ | _____ | _____ |
| 2) | _____ | _____ | _____ | _____ |
| 3) | _____ | _____ | _____ | _____ |
| Total | | _____ | _____ | _____ |
| Year-To-Date Total | | _____ | _____ | _____ |

B+---RECEIPIENTS

Number-----Persons---Receiving---Lifetime---Connection
Assistance-----Year-To-Date

NOTE: Each Eligible Telecommunications Carrier BBE must file the original of this Exhibit A with the Chief Clerk of the Illinois Commerce Commission and forward a copy to the UTSAP Administrator and the Staff Liaison within 30 days after the end of each calendar quarter.

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTSExhibit A
Page 2 5 of 4 5

Local-Exchange-Company:-----

QUARTERLY REPORT TO THE ILLINOIS COMMERCE COMMISSION

STATUS OF THE LIFELINE MONTHLY WAIVER PROGRAM

ELIGIBLE TELECOMMUNICATIONS CARRIER: _____

FOR CALENDAR QUARTER ENDING: _____

| | MONTH | APPLICATIONS | | MONTHLY CHARGES WAIVED \$55.25 |
|---------------------------|-------|--------------|----------|-----------------------------------|
| | | APPROVED | RECEIVED | |
| 1) | _____ | _____ | _____ | _____ |
| 2) | _____ | _____ | _____ | _____ |
| 3) | _____ | _____ | _____ | _____ |
| <u>Total</u> | | _____ | _____ | _____ |
| Year-To-Date <u>Total</u> | | _____ | _____ | _____ |

B)---REGISPIENTS

Number-of-Persons-Receiving-Monthly-Assistance

Year-To-Date-----

Note: Each Eligible Telecommunications Carrier must file the original of this Exhibit A with the Chief Clerk of the Illinois Commerce Commission and forward a copy to the UTSPAP Administrator and the Staff Liaison within 30 days after the end of each calendar quarter. The information-supplied under "Monthly-Charges-Waived"---should---correspond---to---the---information provided-on-Exhibit-B-for-BEGs-with-more-than-95,000-access-lines.

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTSExhibit-A
Page-9-of-5

Local-Exchange-Company:-----

Per-Calendar-Quarter-Ending:-----

B)---BEG-ADMINISTRATIVE-COSTS
{Further-breakdown-of-(e)}i-c-on-page-2-of-5}Administrative-Costs-and
Contact-timea- Supervision
b- Customer-Records-&-Collections
{Total-of-Bines-i-6-Below}

1---Salaries-&-Fringe

Benefits

2---Materials

3---Postage

4---Transportation

Expenses

5---Preprinted-Forms

6---Other

c- Miscellaneous

Customer-Accounts

d- Administrative-&

General-Salaries

e- General-Office

Supplies-&-Expenses

f- Outside-Services

Employed

TOTAL-ADMINISTRATIVE-COSTS

*---Includes-Current-Quarter

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Exhibit A
Page 3 of 4

Local-Exchange-Company:-----

QUARTERLY REPORT TO THE ILLINOIS COMMERCE COMMISSIONSTATUS OF THE UTSAP SUPPLEMENTAL ADDITIONAL INSTALLATION CHARGE
WAIVER

LOCAL EXCHANGE COMPANY:-----

FOR CALENDAR QUARTER ENDING:-----

| A) MONTH | APPLICATIONS APPROVED RECEIVED | ADDITIONAL INSTALLATION CHARGES WAIVED |
|--------------|--------------------------------------|---|
| | | |
| 1) | _____ | _____ |
| 2) | _____ | _____ |
| 3) | _____ | _____ |
| Total | _____ | _____ |
| Year-To-Date | _____ | _____ |

B)--RECIPIENTS

Number--of--Persons--Receiving--Additional--Installation--Charge--Waiver
Assistance

Year-To-Date:-----

Note: Each Local Exchange Company must file the original of this Exhibit A with the Chief Clerk of the Illinois Commerce Commission and forward a copy to the UTSAP Administrator and the Staff Liaison within 30 days after the end of each calendar quarter.

Note: The information supplied under "Additional Installation Charges Waived" should correspond to the information provided on Exhibit B for LECs with more than 35,000 access lines.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Exhibit A
Page 4 of 5

Local-Exchange-Company:-----

QUARTERLY REPORT TO THE ILLINOIS COMMERCE COMMISSIONSTATUS OF UTSAP EXPENDITURES

LOCAL EXCHANGE COMPANY:-----

FOR CALENDAR QUARTER ENDING:-----

| C) UTSAP EXPENDITURE REPORT | Current Quarter | Year to Date* |
|--|--------------------|------------------|
| | | |
| 1. Telecommunications Expenses | | |
| a. Billing and Data Processing | \$ | |
| b. Customer Notification and Bill Inserts | | |
| c. Certification Administration (LEC) and Contact Time | | |
| (Total of Lines 1-6 below) | | |
| 1. Salaries & Fringe Benefits | | |
| 2. Materials | | |
| 3. Postage | | |
| 4. Transportation Expenses | | |
| 5. Preprinted Forms | | |
| 6. Other | | |
| d. Certification Administration (IDPA/SSI) | | |
| e. Service Representative Training | | |
| f. Other, please specify | | |

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NOTICE OF ADOPTED AMENDMENTS

TOTALS \$ _____ \$ _____
Less UTSAP Reimbursement \$ _____ \$ _____
Received \$ _____ \$ _____
BALANCES \$ _____ \$ _____

* Includes Current Quarter

NOTE: Each Local Exchange Company must file the original of this Exhibit A with the Chief Clerk of the Illinois Commerce Commission and forward a copy to the UTSAP Administrator and the Staff Liaison within 30 days after the end of each calendar quarter. Expenses associated with the Federal Lifeline and Link Up Programs should not be reported on this form.

NOTE: LECs Carriers shall maintain supporting documentation in such a manner as to be able to readily identify the above expenses in appropriate subaccounts.

Quarterly "Totals" reported on this page should correspond to the sum of the monthly "Administrative Costs" reported on Exhibit B by LECs with over 35,000 access lines.

(Source: Amended at 22 Ill. Reg. 3310.1 effective MAY 09 1998)

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NOTICE OF ADOPTED AMENDMENTS

Section 757, EXHIBIT B Monthly LEC Waiver Supplemental Installation Charge and Costs/ Contributions Report Reporting-Form

Exhibit B

Monthly LEC Waiver Supplemental Installation Charge and Costs/
Contributions
Report Reporting-Form

LEC _____

Month _____

Contributions:

a) Total Contributions Billed _____

b) Less Uncollectible Contributions
from previous months _____

c) Total Contributions _____

Supplemental Installation Charges and Waiver Costs:

a) Total Additional Installation
Charges Waived
Exhibit A, page 3 4 of 4 5 _____b) Total-Monthly
Waivers-(Exhibit-A7
page-5-of-5) -----c) Total-UTSAP
Expenditures-(Exhibit-A7
page-2-of-5) -----Amount Due from UTSAP Administrator
(Supplemental Waivers exceed
Contributions) _____

or

Amount to be Remitted to UTSAP
Administrator (Contributions exceed
Supplemental Waivers) _____

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NOTICE OF ADOPTED AMENDMENTS

Administrative Costs

Total UTSAP
Expenditures (Exhibit A,
page 4 of 4)

Note: Exhibit B is to be forwarded monthly to the UTSAP Administrator by LECs with more than 35,000 access lines and quarterly by LECs with fewer than 35,000 access lines.

(Source: Amended MAY 09 1998 at 22 Ill. Reg. 8810, effective 8810)

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Section 757. EXHIBIT C Quarterly UTSAP Administrator Report to Commission

Exhibit C

Quarterly UTSAP Administrator Report

For Calendar Quarter Ending _____

1. Balance in Pool at Beginning of Quarter _____

Total Contributions to UTSAP _____

a) Billed by LECs _____

b) Directly to UTSAP Administrator _____

c) Interest Earned _____

d) Less Uncollected Contributions _____

2. Total Contributions _____

Total Costs _____

a) LEC Supplemental Additional
Installation Charge Waivers _____

b) -- EBSGWP-Waivers -----

c) LEC Administrative Expenses _____

d) UTSAP Administrator Expenses _____

3. Total Costs _____

4. Balance in Pool at End of Quarter
(Line 1 plus Line 2 minus Line 3) _____

(Source: Amended MAY 09 1998 at 22 Ill. Reg. 8810, effective 8810)

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NOTICE OF ADOPTED AMENDMENTS

programs, call the applicable agency Department-of-Public-Aid.

Exhibit D
Page 2 of 2

2. If the agency Department has your name on their the master computer list, then call your LEC.

IF YOU NEED TO REAPPLY

1. If you reapply for public--assistance benefits under one of the programs listed above and the agency Department grants your application before (Date) _____, call your LEC to have your eligibility checked.
2. If your application is granted by the agency Department after (Date) _____, you can reapply for the Lifeline BSEWP benefits by calling your LEC.
3. There will be no retroactive Lifeline BSEWP benefits between the time that your benefits are discontinued and the time that your application is approved.

REMOVAL IN ERROR

If you believe that the agency Department--of--Public--Aid has improperly terminated you from one of the listed programs, you must resolve this with the applicable agency Department.

If your Public-Aid benefits are continued while the dispute is pending, your Lifeline BSEWP benefits will also be continued.

If your Public--Aid benefits are not continued while the dispute with the applicable agency Department is pending, you will not receive Lifeline BSEWP benefits until you have won your appeal.

Call your LEC to let them know if your benefits are being continued and/or if you have won your appeal.

There will be no retroactive Lifeline BSEWP benefits between the time that your benefits are discontinued and the time that your application is approved.

(Source: Amended at 22 Ill. Reg. 8810, effective MAY 0 0 1998)

ILLINOIS COMMERCE COMMISSION
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Section 757. EXHIBIT D Lifeline BSEWP Recertification Ineligibility Notice

Exhibit D
Page 1 of 2

NOTICE OF REMOVAL FROM THE
LIFELINE LOCAL-EXCHANGE-SERVICE-OBLIGATION WAIVER PROGRAM
(BSEWP)

LEC (UTILITY) NAME _____
LEC PHONE # _____
Customer Name _____
Address _____
City, State, Zip _____
Phone Number _____
Account Number _____

Records show The-Illinois-Department-of-Public-Aid-no-longer-shows that you are receiving benefits under one of the following programs:

- Medicaid
- Supplemental Security Income
- Federal Public Housing Assistance
- Low-Income Home Emergency Assistance Program
- Aid-to-Families-With-Dependent-Children-(AFDC)
- Aid-to-the-Aged-Blind-and-Disabled-(AABD)
- General-Assistance-in-Chicago-(GA)
- Refugee/Repatriate-Programs
- Food Stamps-or
- Select-Medical-Assistance-programs

You will therefore be removed from the Lifeline Program Local-Exchange-Service Obligation-Waiver--Program-(BSEWP)--and--no--longer--receive--monthly--credits toward-your-bill-under-the-BSEWP-on-or-after-(Date).

TO AVOID REMOVAL IF YOU ARE STILL RECEIVING BENEFITS

1. If you are still receiving benefits under one of the above listed

for Chicago Kent Law School

ILLINOIS COMMERCE COMMISSION

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Section 757. EXHIBIT E Link Up/Lifeline Telephone--Assistance Programs
Certification Form

Exhibit E

ELIGIBLE TELECOMMUNICATIONS CARRIERS

LINK UP/LIFELINE TELEPHONE--ASSISTANCE PROGRAMS

CERTIFICATION FORM

NAME _____ DATE ISSUED ____/____/____
ADDRESS _____ APARTMENT _____
CITY _____ ZIP CODE _____
COUNTY _____ AGE _____
SOCIAL SECURITY NO. _____
PUBLIC AID CASE NUMBER _____

For which benefits do you wish to apply?

- Link Up Connection Fee Assistance (waiver of up to 50% of the initial telephone connection fee)
-- Lifeline Local Exchange Service Assistance (Assistance) with monthly telephone bills
-- UTSAP Assistance (Supplemental Initial Telephone Connection Fee Assistance)

1- Are you claimed by someone else as a dependent for federal income tax purposes?

YES--{--} NO--{--}

2- Have you lived at your present address without telephone service for at least three months?

YES--{--} NO--{--}

3- Have you previously received Bank Up--America--assistance within the last two years?

YES--{--} NO--{--}

4- Are you still a participant as of this date of application in one of

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the programs listed below following--State--of--Illinois--Assistance Programs?

YES { } NO { }

In which program(s) do you currently participate?

-- Food Stamps
-- Medicaid
-- Supplemental Security Income (SSI)
-- Federal Housing Assistance Program
-- Low-Income Home Energy Assistance Program (LIHEAP)

Aid-to-Families-with-Dependent-Children-(AFDC)
Aid-to-the-Aged-Blind-and-Disabled-(AABB)
General-Assistance-(GA)
Refugee-Repatriate-Programs-(RRA)
Medical-Assistance

YES--{--} NO--{--}

Food Stamps

YES--{--} NO--{--}

Under penalty of perjury, I confirm that I participate in the above stated program(s). I will notify my provider of local exchange service in the event I cease to participate in the program(s). By my signature below, I give the Social Security Administration permission to inform my local exchange telephone company whether or not I am entitled to Supplemental Security Income benefits as of the date of this application.

SIGNED _____

DATE _____

(Source: Amended at 22 Ill. Reg. 88105 effective MAY 09 1998)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3) Section Number: Adopted Action:
 240.1600 Amend
 240.1610 Amend
 240.1620 Amend
 240.1625 New
 240.1630 Amend
 240.1635 Amend
 240.1640 Amend
- 4) Statutory Authority: Implemented and authorized by Section 6 of the Illinois Oil and Gas Act [225 ILCS 725/6].
- 5) Effective Date of Amendments: April 28, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) Date filed in Agency Principal Office: April 28, 1998
- 9) Notice(s) of Proposal published in Illinois Register: 22 Ill. Reg. 2495, January 30, 1998
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Difference(s) between proposal and final version:

a) Section 240.1600, in the definition of "Emergency Clean-Up Project", the commas after "clean-up" and "remediation" have been stricken.

b) Section 240.1600, in the definition of "Emergency Repair Work", the comma after "well" has been stricken and the word "that" has been reinstated and "which" has been deleted.

c) Section 240.1600, in the definition of "Well Site Equipment", "means the equipment" and "in tanks located on" are not italicized; "that" has been added after the word "operation"; and "(Section 19.6 of the Oil and Gas Act)" has been added at the end of the definition.

d) Section 240.1610(e), the semicolon after the word "follows" has been changed to a colon; subsection (g), "subsection" has been changed to "Section".

e) Section 240.1620(b), the semicolon after the word "follows" has been

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

changed to a colon.

f) Section 240.1625(a)(1), "this" has been added after "with"; "of this Part" has been deleted; subsection (a)(2), "landowner" has been capitalized; subsection (h)(1), "owner" has been changed to "owner's"; subsection (i)(2) the word "of" after "violation" has been changed to "or".

g) Section 240.1630(b) and (c), the word "clean up" has been hyphenated.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency rule currently in effect? Yes

14) Are there any amendments pending of this Part? Yes

| Section Number | Proposed Action | Illinois Register Citation |
|----------------|-----------------|----------------------------|
| 240.155 | New | 22 Ill. Reg. 2044 |
| 240.160 | Amend | 22 Ill. Reg. 2044 |
| 240.170 | Repeal | 22 Ill. Reg. 2044 |
| 240.180 | Amend | 22 Ill. Reg. 2044 |
| 240.185 | New | 22 Ill. Reg. 2044 |
| 240.190 | Amend | 22 Ill. Reg. 2044 |

15) Summary and purpose of amendments: This rulemaking provides definitional clarifications, eligibility requirements, application criteria, submission, review and acceptance processes, and fund allocation parameters for operating the Landowner Grant Program, as well as procedures for disposing of well site equipment under the Plugging and Restoration Program.

16) Information and question regarding this adopted amendment shall be directed to:

Alfred L. Clayborne, Legal Counsel
 Department of Natural Resources
 524 South Second Street
 Springfield, IL 62701
 217/782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES

PART 240
THE ILLINOIS OIL AND GAS
ACT

SUBPART A: GENERAL PROVISIONS

| Section | |
|---------|--|
| 240.10 | Definitions |
| 240.20 | Prevention of Waste (Repealed) |
| 240.30 | Jurisdiction (Repealed) |
| 240.40 | Enforcement of Act (Repealed) |
| 240.50 | Delegation of Authority (Repealed) |
| 240.60 | Right of Inspection (Repealed) |
| 240.70 | Right of Access (Repealed) |
| 240.80 | Sworn Statements (Repealed) |
| 240.90 | Additional Reports (Repealed) |
| 240.100 | When Rules Become Effective (Repealed) |
| 240.110 | Notice of Rules (Repealed) |
| 240.120 | Forms (Repealed) |
| 240.130 | Hearings--Notices (Repealed) |
| 240.131 | Unitization Hearings |
| 240.132 | Integration Hearings |
| 240.133 | Hearings to Establish Pool-Wide Drilling Units |
| 240.140 | Violations Not Requiring Formal Action |
| 240.160 | Director's Decision |
| 240.170 | Cessation Order |
| 240.180 | Enforcement Hearings |
| 240.190 | Temporary Relief |
| 240.195 | Subpoenas |

SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

| Section | |
|---------|---|
| 240.200 | Applicability |
| 240.210 | Application for Permit to Drill, Deepen or Convert to a Production Well |
| 240.220 | Contents of Application |
| 240.230 | Authority of Person Signing Application |
| 240.240 | Additional Requirements for Directional Drilling |
| 240.245 | Additional Requirements for Horizontal Drilling |
| 240.250 | Issuance of Permit to Drill |
| 240.251 | Revocation of Permit to Drill |
| 240.255 | Conversion of a Production Well to a Water Well |
| 240.260 | Change of Well Location |

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| | |
|---------|--|
| 240.270 | Application for Approval of Enhanced Recovery Injection and Disposal Operations (Repealed) |
| 240.280 | Duration of Underground Injection Well Orders (Repealed) |

SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

| Section | |
|---------|--|
| 240.300 | Applicability |
| 240.305 | Transfer of Management (Recodified) |
| 240.310 | Application for Permit to Drill, Deepen, Convert or Amend to a Class II UIC Well |
| 240.320 | Contents of Application |
| 240.330 | Authority of Person Signing Application |
| 240.340 | Proposed Well Construction and Operating Parameters |
| 240.350 | Groundwater and Potable Water Supply Information |
| 240.360 | Area of Review |
| 240.370 | Public Notice |
| 240.380 | Issuance of Permit |
| 240.385 | Conversion of a Class II Well to a Water Well |
| 240.390 | Permit Amendments |
| 240.395 | Update of Class II UIC Well Permits Issued Prior to July 1, 1987 |

SUBPART D: SPACING OF WELLS

| Section | |
|---------|--|
| 240.400 | Definitions |
| 240.410 | Drilling Units |
| 240.420 | Well Location Exceptions within Drilling Unit |
| 240.430 | Drilling Unit Exceptions |
| 240.440 | More Than One Well on a Drilling Unit |
| 240.450 | Directional Drilling |
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| 240.470 | Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics |

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| 240.510 | Department Permit Posted |
| 240.520 | Drilling Fluid Handling and Storage |
| 240.525 | Saltwater or Oil Based Drilling Fluid Handling and Storage |
| 240.530 | Completion Fluid and Completion Fluid Waste Handling and Storage |
| 240.540 | Drilling and Completion Pit Restoration |
| 240.550 | Disposal of General Oilfield Wastes and Other Wastes |

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REQUIREMENTS FOR PRODUCTION WELLS
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| 240.600 | Applicability |
| 240.605 | Drilled Out Plugged Hole (DOPH) Notification |
| 240.610 | Construction Requirements for Production Wells |
| 240.620 | Remedial Cementing of Leaking Wells |
| 240.630 | Operating Requirements |
| 240.640 | Reporting Requirements |
| 240.650 | Confidentiality of Well Data |
| 240.655 | Mechanical Integrity Testing for Class II Injection Wells (Repealed) |
| 240.660 | Monitoring and Reporting Requirements for Enhanced Recovery Injection and Disposal Wells (Repealed) |
| 240.670 | Avoidable Waste of Gas (Repealed) |
| 240.680 | Escape of Unburned Gas Prohibited (Repealed) |

SUBPART G: WELL CONSTRUCTION, OPERATING
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| Section | |
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| 240.700 | Applicability and Definitions |
| 240.710 | Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells Drilled After the Effective Date of this Section |
| 240.720 | Surface and Production Casing Requirements for Conversion to Class II UIC Wells |
| 240.730 | Surface and Production Casing Requirements for Existing Class II UIC Wells |
| 240.740 | Other Construction Requirements for Class II UIC Wells |
| 240.750 | Operating Requirements for Class II UIC Wells |
| 240.760 | Establishment of Internal Mechanical Integrity for Class II UIC Wells |
| 240.770 | Establishment of External Mechanical Integrity for Class II UIC Wells |
| 240.780 | Reporting Requirements for Class II UIC Wells |
| 240.790 | Confidentiality of Well Data |
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| 240.805 | Lease and Well Identification |
| 240.810 | Tanks and Containment Dikes |
| 240.820 | Flowlines |
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| 240.906 | Application for a Liquid Oilfield Waste Transportation Vehicle Permit |
| 240.910 | Inspection of Vehicles (Tanks) |
| 240.920 | Issuance of Liquid Oilfield Waste Transportation System and Vehicle Permits |
| 240.925 | Liquid Oilfield Waste Recordkeeping Requirements |
| 240.926 | Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements |
| 240.930 | Produced Water |
| 240.940 | Crude Oil Bottom Sediments |
| 240.950 | Crude Oil Spill Waste Disposal (Repealed) |
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| 240.970 | Inspection of Vehicles (Repealed) |
| 240.980 | Transfer of Permits (Repealed) |
| 240.985 | Revocation of Oil Field Brine Hauling Permit (Repealed) |
| 240.990 | Records and Reporting Requirements (Repealed) |
| 240.995 | Bonds--Blanket Surety Bond (Repealed) |

SUBPART J: VACUUM

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| 240.1000 | Definitions |
| 240.1005 | Applicability |
| 240.1010 | Application for Vacuum Permit |
| 240.1020 | Contents of Application |
| 240.1030 | Authority of Person Signing Application |
| 240.1040 | Notice and Hearing |
| 240.1050 | Issuance of Permit |
| 240.1060 | Permit Amendments |

SUBPART K: PLUGGING OF WELLS

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| 240.1105 | Plugging of Non-Productive Wells (Repealed) |
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| 240.1120 | Plugging of Uncased Wells |
| 240.1130 | Plugging or Temporary Abandonment of Inactive Wells and Certain Class II UIC Wells |
| 240.1131 | Extension of Future Use Status |
| 240.1140 | General Plugging Procedures and Requirements |
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| 240.1151 | Procedures for Plugging Coal Seams |
| 240.1160 | Plugging Fluid Handling and Storage |
| 240.1170 | Plugging Fluid Waste Disposal and Well Site Restoration |
| 240.1180 | Lease Restoration |
| 240.1181 | Lease Restoration Requirements |
| 240.1190 | Filing Plugging Report |

SUBPART L: REQUIREMENTS FOR OTHER TYPES OF WELLS

| Section | |
|----------|--|
| 240.1200 | Applicability |
| 240.1205 | Application for Permit to Drill a Test Well or Drill Hole |
| 240.1210 | Contents of Application for Permit to Drill or Convert to an Observation, Gas Storage Well or Service Well (Repealed) |
| 240.1220 | Contents of Application for Coal Test Hole, Mineral Test Hole, Structure Test Hole, or Coal or Mineral Groundwater Monitoring Well |
| 240.1230 | Authority of Person Signing Application |
| 240.1240 | Issuance of Permit |
| 240.1250 | When Wells Shall Be Plugged and Department Notification |
| 240.1260 | Plugging and Restoration Requirements |
| 240.1270 | Confidentiality |
| 240.1280 | Converting to Water Well |

SUBPART M: PROTECTION OF WORKABLE COAL BEDS

| Section | |
|----------|---|
| 240.1300 | Introduction |
| 240.1305 | Permit Requirements in Mine Areas |
| 240.1310 | Workable Coal Beds Defined |
| 240.1320 | Mining Board may Determine Presence of Coal Seams |
| 240.1330 | Well Locations Prohibited |
| 240.1340 | Notice to Mining Board |
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| 240.1380 | Transfer of Permits (Recodified) |
| 240.1385 | Revocation of Oil Field Brine Hauling Permit (Recodified) |
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| 240.1395 | Bonds---Blanket Surety Bond (Recodified) |

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SUBPART N: TRANSFER OF PERMIT

| Section | |
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| 240.1405 | Transfer of Management (Repealed) |
| 240.1410 | Applicability |
| 240.1420 | When Notification to be Made |
| 240.1430 | Responsibilities of Current Permittee |
| 240.1440 | Responsibilities of New Permittee |
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SUBPART O: BONDS

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| 240.1520 | Bond Requirements |
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SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS
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240.1810 Submission of Underground Gas Storage Field Map
240.1820 Permit Requests in a Underground Gas Storage Field
240.1830 Application for Permit to Drill or Convert Wells
240.1835 Content of Application for Permit to Drill or Convert to an Observation or Gas Storage Well
240.1840 Authority of Person Signing Application
240.1850 Issuance of Permit
240.1852 Gas Storage and Observation Well, Construction, Operating and Reporting Requirements
240.1855 Well Drilling Completion and Workover Requirements
240.1860 Storage Field Operating Requirements
240.1865 Liquid Oilfield Waste Disposal
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SUBPART S: REQUIREMENTS FOR SERVICE WELLS

Section
240.1900 Applicability
240.1905 Application for Permit to Drill or Convert to Other Types of Wells or Drill Holes
240.1910 Contents of Application for Permit to Drill or Convert to a Service Well
240.1920 Authority of Person Signing Application
240.1930 Issuance of Permit
240.1940 When Wells Shall Be Plugged and Department Notification
240.1950 Plugging and Restoration Requirements
240.1960 Converting to Water Well

AUTHORITY: Implementing and authorized by Sections 6 and 8a of the Illinois Oil and Gas Act [225 ILCS 725/6 and 8a].

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg.

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2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 21 Ill. Reg. 7164, effective June 3, 1997; emergency amendment at 22 Ill. Reg. 988, effective December 4, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. APR 28 1998 425-1997, effective

In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

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Section 240.1600 Definitions

The following definitions are applicable to this Subpart:

"Abandoned Well" means:

A well:

for which the underlying lease has been released in writing by the lessee or has been declared forfeited or invalid by a court order, such order is final and the appeal period has lapsed; and

the lessor states in writing that the lessor has not leased out the oil and gas working interest to any other person and does not intend to so lease, that the lessor does not intend to operate the well, and that the lessor desires that the well be plugged; or

A well owned by a permittee who has made no payment by November 1 of a current annual well fee assessment; or

A well that has not produced for over 2 years and ~~has failed to comply with temporary abandonment requirements in accordance with Section 240.1130 of this Part.~~

"Emergency Clean-up Project" means an emergency well-site or crude oil production facility clean-up or crude oil or saltwater spill clean-up or remediation of conditions endangering public health or safety or contaminating surface waters, ground water, or the surface of the land, ~~of the U-S-r-as-defined-by-the-Federal Oil-Pollution-Act-of-1990.~~

"Emergency Repair Remedial Work" means remedial work to repair or

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contain leaks, as a direct result of a leaking well of produced fluids from production equipment, pits, or other containment structures of oil or saltwater that are contaminating surface waters, ground waters or are flowing in sufficient quantity to create an increasing area of contamination on the surface of the land.

"Emergency Well Plugging" means the plugging and abandonment of a well or wells that are actively flowing oil or saltwater and are contaminating surface waters, ground waters or flowing in sufficient quantity to create an increasing area of contamination on the surface of the land, or a well leaking natural gas or hydrogen sulfide gas in sufficient quantity to endanger public safety or create a fire hazard or a non-leaking well which poses an imminent danger to public safety.

"PRF" means the Department's Plugging and Restoration Fund, established under Section 6 of the Illinois Oil and Gas Act.

"Well-Site" means the area within the immediate vicinity of the wellhead and the associated lease tanks used for storage of crude oil and saltwater excluding produced water storage pits, concrete storage structures and centralized tank batteries associated with enhanced oil recovery projects.

"Well Site Equipment" means the equipment, including but not limited to, an associated tank battery and production facility equipment, hydrocarbons from the well that are stored in tanks located on the lease, and hydrocarbons recovered during the plugging operation, that may be sold at a public auction or a public or private sale. All well site equipment and hydrocarbons acquired by a person by sale shall be acquired under clear title, subject to any perfected prior legal or equitable claims. (Section 19.6 of the Oil and Gas Act)

(Source: Amended at 22 Ill. Reg. 8845, effective APR 28 1998)

Section 240.1610 Plugging Leaking or Abandoned Wells

a) If the Department finds, upon inspection, that a well drilled for the exploration, development, storage or production of oil or gas, or for injection, salt water disposal, salt water source, observation, and geological or structure test, may be abandoned or leaking salt water, oil, gas or other deleterious substances into any fresh water formation or onto the surface of the land, the Department may schedule a hearing pursuant to Section 19.1 of the Act to order the well plugged if abandoned or repaired or plugged if leaking.

b) Hearings

1) Notice of Hearing
Whenever the Department holds a hearing pursuant to Section 19.1

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of the Act, the Department shall give written notice to the permittee and surface owner personally or by certified mail sent to the permittee's last known address. The notice shall include the date, time, place, nature of the hearing and the name and address of the hearing officer. The notice shall be mailed at least 14 days prior to the scheduled hearing date.

2) Right to Counsel, Appearance

A) Right to Counsel

Any party may appear and be heard through an attorney at law authorized to practice in the State of Illinois.

B) Appearance of Attorney

An attorney appearing in a representative capacity in any proceeding hereunder shall file a written notice of appearance identifying his or her name, address and telephone number, and identifying the party represented.

3) Burden and Standard of Proof

The Department shall have the burden of proof at the hearing. The standard for decision shall be a preponderance of the evidence.

4) Hearing Officer; Powers and Duties

A) The Hearing Officer designated to preside over a hearing shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing, including the following:

- i) To administer oaths and affirmations;
- ii) To receive relevant evidence;
- iii) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
- iv) To consider and rule upon procedural requests;
- v) To hold conferences for the settlement or simplification of the issues; and
- vi) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify.

B) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

5) Hearing Location

All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Subpart at a site located closer than Springfield, Illinois, to the production and injection/disposal well identified in the Notice of Hearing if facilities are available and satisfactory to the Department.

6) Pre-Hearing Conferences

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- A) Upon the motion of either party, the Hearing Officer shall schedule a conference in order to:
- Simplify the factual and legal issues presented by the hearing request;
 - Receive stipulations, admissions of fact and of the contents and authenticity of documents;
 - Exchange lists of all witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
 - Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
- B) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all of the parties.
- 7) Postponement or Continuance of Hearing
- A hearing may be postponed or continued for due cause by the Hearing Officer or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuance so that the subject matter of the hearing may be resolved expeditiously.
- 8) Default

If a party, after proper service of notice, fails to appear at a pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed and make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to emergency situation beyond the party's control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to subsection (b)(7) above. Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the party's control.

- 9) Within 30 days after the close of the hearing record, the Hearing Officer shall issue proposed findings of fact, conclusions of law and recommendations as to the disposition of the case.
- 10) The Director shall review the administrative record in conjunction with the hearing officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. The Director shall then issue the Department's final administrative decision affirming, vacating or modifying the hearing officer's decision.

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- c) Upon the issuance of a final administrative decision which finds that a well has been abandoned or is leaking salt water, oil, gas or other deleterious substances into any fresh water formation or onto the surface of the land, the permittee shall, within 30 days, properly plug, replug or repair the well so as to remedy the situation.
- d) If the permittee fails to remedy the situation within 30 days from the date of the order, the well shall be placed in the PRF Program. the Department may authorize any person to enter upon the land and plug, replug or repair the well and restore the well site. The Department may dispose of all well site equipment and hydrocarbons in accordance with Section 19.6 of the Illinois Oil and Gas Act as follows: public sale, auction, private sale, or by assignment or quit claim deed to a third party to offset plugging costs.
- f) Proceeds from any public sale, auction or private sale shall be deposited into the Plugging and Restoration Fund in accordance with Section 6(19) of the Illinois Oil and Gas Act or used to offset plugging costs.
- g) The cost of all work completed under this Section shall be paid from the Annual Well Fee portion of the Plugging and Restoration Fund.

(Source: Amended at 22 Ill. Reg. 0845 effective APR 28 1998)

Section 240.1620 Plugging Orphaned Wells

- a) If upon review of Department records a determination is made that no permittee can be located, no bond exists and no fees have been paid in accordance with Section 19.7 of the Act, the well shall be deemed an orphaned well and placed in the PRF Program.
- b) The Department may elect to plug, replug or repair the well and/or restore the well site of any orphaned well. The Department may authorize any person to enter upon the land and plug, replug, and restore the well site. The Department may dispose of all well site equipment and hydrocarbons in accordance with Section 19.6 of the Illinois Oil and Gas Act as follows: public sale, auction, private sale, or by assignment or quit claim deed to a third party to offset plugging costs.
- c) Proceeds from any public sale, auction or private sale shall be deposited into the Plugging and Restoration Fund in accordance with Section 6(19) of the Illinois Oil and Gas Act or used to offset plugging costs.
- d) If the Department determines that any condition or practice exists which creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or

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significant damage to property, the Department or its agent may immediately take any action necessary to temporarily correct the source of oil, salt water, gas or other deleterious substances intrusion into fresh water zones or onto the surface.

- e) The cost of all work completed under this Section shall be paid from the bond forfeiture monies portion of the Plugging and Restoration Fund.

(Source: Amended 22 Ill. Reg. 8845, effective APR 8 1998)

Section 240.1625 Plugging Abandoned Wells Through Landowner Grant

- a) The provisions of this Section apply to:

- 1) Wells determined to be abandoned in accordance with this Subpart P and placed into the Department Plugging and Restoration Program pursuant to a final administrative decision of the Department.
- 2) Abandoned wells may be eligible to be plugged under the Landowner Grant Program upon application to the Department by the owner of the land surface on which a well(s) is located, provided that the land surface owner is not the current or a past permittee of the well(s).
- b) All wells plugged and well sites restored under this Section shall be completed in accordance with Subpart K.
- c) The number of wells plugged and expenditures made under this program are limited to the annual appropriation of funds to the Landowner Grant Program by the legislature.
- d) Each land surface owner is limited to receiving a grant amount for a maximum of 5 wells per fiscal year, unless available funds allow the Department to award increased grant amounts.
- e) During the first year of the program, grant applications shall only be accepted after December 22, 1997 and be processed in the order they are received until the appropriated funds have been allotted.
- f) Following the first year of the program, the Department shall only accept and process grant applications after April 1 for the coming fiscal year. Applications received before April 1 for the coming fiscal year shall be returned to the applicant for submission after April 1. Applications shall be accepted and processed until the allocated funds in the grant program have been awarded, after which time all unawarded grant applications shall be returned to the applicant.
- g) Approved applications shall be considered for funding each year in the order they were received after April 1. The exception will be if the Department determines a well is creating or has the potential to create environmental damage to surface waters or groundwater or poses an immediate danger to the health and safety of the public, the well may be given greater priority on the current year's plugging list.
- h) Grant applications shall contain at a minimum:

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- 1) The land surface owner's name, address and telephone number.
- 2) The location of the well(s), with verification from the Department well inspectors.
- 3) An estimated salvage value of the well and well site equipment.
- 4) The cost to plug the well and restore the well site.
- 5) A signed contract between the land surface owner and plugging contractor on a form provided by the Department.
- 6) A signed statement by the land surface owner that the applicant is the owner of the land surface, will be responsible for all costs of plugging the well and well site restoration in accordance with Department regulations, and indemnifies the Department from any liability relative to the plugging activity.

i) Application Review and Approval

- 1) In determining the approval of the application the Department shall review:
 - A) eligibility of the well to be plugged;
 - B) the reasonableness of the cost to plug the well;
 - C) the salvage value of the on-site equipment; and
 - D) the enforcement history of the proposed plugging contractor.

- 2) If the Department determines that the well is eligible for plugging, the application is properly completed, the plugging cost and estimated salvage value are reasonable in relation to industry standards, and the plugging contractor has no unabated notices of violation or a substantial enforcement history of environmental related violations, the Department shall notify the landowner of the grant award.

j) Grant Award

- 1) The grant amount shall be the amount requested less the salvage value specified in the grant application or established by the Department during the grant review process.
- 2) The land surface owner shall be notified of the grant award at which time the applicant shall have 10 working days to accept in writing by signing and returning the grant award document.
- 3) Upon completion of the well plugging and site restoration, approved by a well inspector, the Department shall forward the grant funds to the land surface owner. If the well plugging and site restoration is not approved, grant funds will not be awarded.
- 4) All well plugging and well site restoration activities shall be commenced within 120 days and shall be completed within 180 days after Department approval of the grant.

(Source: Added 22 Ill. Reg. 8845, effective APR 8 1998)

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- a) If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act, this Part or any permit condition, and this practice, condition or violation creates an imminent danger to the health or safety of the public or an imminent danger of significant environmental harm or significant damage to property, the Department shall issue a cessation order pursuant to Section 240.170 of this Part to the last known permittee of record. If the responsible party cannot be readily located or is no longer in existence, the Department will not be required to issue a cessation order and may will take any action deemed necessary to correct the condition.
- b) Upon the expiration of time within which abatement was required under the cessation order, if issued, the Department may take any action, including well plugging, the well-and well site restoration, facility clean-up, or emergency clean-up, deemed necessary to cause a cessation of the danger to the public health and safety or environmental harm and abatement of any condition.
- c) The cost of all emergency well plugging, and emergency repair remedial work and emergency clean-up projects completed under this Section shall be paid from the Annual Well Fee portion of the Plugging and Restoration Fund.

(Source: Amended at 22 Ill. Reg. 8845, effective APR 28 1998)

Section 240.1635 Emergency Well Plugging and Emergency Project Projects Reimbursement

- a) If the Department determines that any condition or practice exists, as specified in Section 240.1630 of this Part, which endangers the waters of the U.S. as a result of a crude oil spill or indicates the potential for a crude oil spill in accordance with the Federal Oil Pollution Act of 1990 (OPA), the Department may seek reimbursement of monies expended from the Plugging and Restoration Fund from activate the Federal Oil Pollution Act [OPA] Fund in accordance with USEPA guidelines.
- b) Reimbursement funds shall be deposited in the Plugging and Restoration Fund. The cost of all work completed under this Section shall be paid from the OPA reimbursement portion of the Plugging and Restoration Fund.

(Source: Amended at 22 Ill. Reg. 8845, effective APR 28 1998)

Section 240.1640 Repayment of Funds

- a) The permittee must reimburse the Plugging and Restoration Fund for all funds obligated from the Plugging and Restoration Fund, excepting OPA

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- reimbursed monies, for repair, plugging, or restoration or clean-up work on the permittee's wells or sites, together with all interest accrued, as provided under Section 19.9 of the Act.
- b) Prior to repayment of all funds, the permittee shall not operate any other existing wells in the permittee's name.
- c) After repayment of all funds, the permittee shall post a bond in accordance with Section 240.1500(a)(1)(E) and (a)(2) for a period of 2 consecutive billing cycles in accordance with Section 240.1500(a)(3)(C) prior to permitting or operating any wells.

(Source: Amended at 22 Ill. Reg. 8845, effective APR 28 1998)

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1) Heading of the Part: Manufactured Home Community Code2) Code Citation: 77 Ill. Adm. Code 8603) Section Numbers: Adopted Action

| | |
|------------|-------------|
| 860.10 | New Section |
| 860.20 | New Section |
| 860.100 | New Section |
| 860.110 | New Section |
| 860.120 | New Section |
| 860.130 | New Section |
| 860.140 | New Section |
| 860.150 | New Section |
| 860.160 | New Section |
| 860.200 | New Section |
| 860.210 | New Section |
| 860.220 | New Section |
| 860.230 | New Section |
| 860.240 | New Section |
| 860.250 | New Section |
| 860.260 | New Section |
| 860.270 | New Section |
| 860.280 | New Section |
| 860.290 | New Section |
| 860.300 | New Section |
| 860.310 | New Section |
| 860.320 | New Section |
| 860.330 | New Section |
| 860.340 | New Section |
| 860.350 | New Section |
| 860.360 | New Section |
| 860.370 | New Section |
| 860.380 | New Section |
| 860.390 | New Section |
| 860.400 | New Section |
| 860.410 | New Section |
| 860.420 | New Section |
| 860.430 | New Section |
| 860.500 | New Section |
| 860.510 | New Section |
| 860.520 | New Section |
| 860.530 | New Section |
| Appendix A | New Section |
| Appendix B | New Section |
| Appendix C | New Section |
| Appendix D | New Section |
| Table A | New Section |
| Table B | New Section |

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| | |
|----------------|-------------|
| Table C | New Section |
| Illustration A | New Section |
| Illustration B | New Section |
| Illustration C | New Section |
| Illustration D | New Section |
| Illustration E | New Section |
| Illustration F | New Section |

4) Statutory Authority: Illinois Mobile Park Act (210 ILCS 115)5) Effective Date of Rules: May 11, 19986) Does this Rulemaking Contain an Automatic Repeal Date? No7) Does this Rulemaking Contain any Incorporation by Reference? Yes8) Date Filed in Agency's Principal Office: May 8, 19989) Date Notice of Proposed Rulemaking was Published in the Illinois Register: May 9, 1997; 21 Ill. Reg. 572110) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking: No11) Difference Between Proposal and Final Version:

The heading of the Part was changed from Mobile Home Park Code to Manufactured Home Community Code and all references to mobile homes or mobile home communities were changed to refer to manufactured homes and manufactured home communities.

Throughout the rules, certain new requirements will apply only to manufactured home sites constructed after July 1, 1998.

The term "tenant", with respect to persons who live in manufactured home communities, was changed to "resident" throughout the rules.

Section 860.100 was revised to specify that required permits for the construction or alteration of a manufactured home community are issued for a three-year period and that one three-year extension may be issued upon request.

Section 860.100 was revised to clarify that a construction permit is not required for routine maintenance and repairs.

Section 860.120(a)(5) was modified to require the manufactured home community plan to include the name of the public water supply system and to delete a requirement for the community plan to include the name of the

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district or municipality.

Section 860.120(a)(11) was modified to include in the manufactured home community plan a description of how proposed utility extensions for new sites will be connected.

Section 860.150(b) was modified, in part, to specify that in order for a home to be considered immobilized, the home must be supported by a continuous perimeter foundation. The rules as proposed did not include the word "continuous".

In Section 860.200(c) the proposed distance requirements for auxiliary structures such as sheds and garages have been deleted.

Section 860.200(d) was modified to require sheds on corner sites to be at least 3 feet from all existing streets.

Section 860.210(b) was revised to require support systems consisting of a minimum 3 1/2 inches thick concrete pad, runner or piers and allow alternative equivalent support systems to be submitted to the Department for review and approval.

Section 860.220(c) was modified to require parking spaces on streets to be a minimum of 18 feet in length.

Section 860.230 was modified to clarify that a drinking water system serving the manufactured home community shall be either a community public water supply system regulated by the Illinois Environmental Protection Agency or a non-community public water supply system regulated by the Department of Public Health and specifies the regulations that apply to each type of system.

Section 860.230(d) was modified to specify that routine water sampling will not be required by the Department for water supplies regulated by the Illinois Environmental Protection Agency.

Section 860.250 was modified to provide that electrical distribution systems constructed or replaced after July 1, 1998 shall be designed and constructed to conform with the 1996 National Electrical Code.

Section 860.250(b)(4) was modified to specify that equipment located under the home shall be protected from the weather.

Section 860.250(b)(7) was modified to clarify that all circuits at the service equipment shall be protected by over-current protection as required by the National Electrical Code in effect at the time of installation.

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Section 860.250(b)(8) was modified to state that overhead conductors shall have an 18 foot vertical clearance over all streets, a 12 foot clearance over driveways, and a 10 foot clearance above grade

The requirements of Section 860.280 concerning lighting are only applicable to communities constructed after July 1, 1998.

Section 860.320 was modified to require temporary identification of a vacant site that does not have identification.

Section 860.340 was modified to delete proposed requirements for enclosed fenced areas in which the home serves as one side of the enclosure to have a minimum 36 inch wide gate for accessibility in an emergency.

Section 860.430 was modified to state that the manufactured home community register must include acknowledgment by the resident that the information required in Section 860.400 was received by the resident.

Section 860.430 was modified to state that the community management shall be responsible for correcting violations of the rules and if this is not possible, the community management shall advise the Department in writing of the action initiated against the resident and the anticipated date of correction of the violations.

Section 460.530 was added as a new Section to clarify which requirements of the rules are applicable to existing communities.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreement letter issued by the Joint Committee.

13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Rulemaking:

The Illinois Department of Public Health is adopting extensive changes to rules formerly entitled "Mobile Home and Mobile Home Park Code" in an effort to provide a safe and healthy environment for the occupants of manufactured home communities. In order to accommodate the reorganization of the rules, which were last revised in 1984, the existing rules are repealed concurrently with the adoption of new rules. In addition to the reorganization of the rules, substantive changes are made as follows:

Section 860.120 adds requirements for the items required on the overall

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community plan and typical site plan. The plans must include detail showing location of sidewalks, water and sewer pipes, electrical conductors and equipment fuel pipes, community lighting, etc. This Section is an expansion of existing requirements for plans (860.300).

Section 860.130 specifies the requirements for construction in a flood plain, with no substantive changes from the existing rules.

Section 860.140 specifies the requirements for obtaining approval from IEPA and the local jurisdiction for construction of a surface discharging private sewage disposal system with a flow greater than 1,500 gallons per day. This Section contains no substantive change from the existing rules.

Section 860.150 is a new section outlining procedures for occupancy of newly constructed sites.

Section 860.160 includes the requirements for immobilizing a manufactured home for the purpose of reducing the number of licensed spaces in a manufactured home community. These requirements are an expansion of existing rules, which do not specify requirements for immobilization.

In Section 860.170 the requirements for reducing the number of licensed sites within a community are added. This provision is an existing requirement of the Mobile Home Park Act.

Section 860.200 specifies the separation distances for homes, sheds, garages, carports and porches from each other and streets, alleys and property lines. Existing rules specify the same distances from mobile homes to the side boundaries of the community and to streets, but distances for sheds and other structures are new.

Section 860.210 adds detailed requirements for the foundation systems of homes installed after July 1, 1998. This is an expansion of existing requirements.

Section 860.220 requires community owners to maintain streets free of potholes and snow and ice, specifies street construction and parking spaces requirements. This is an expansion of existing requirements.

Section 860.230 clarifies the requirements for water supply and distribution systems. Changes from the existing rules are provisions for shut off-valves for each water riser and freeze protection. Requirements are included for issuing boil orders and notification of tenants when water service is interrupted.

Section 860.240 clarifies sewage disposal requirements.

Section 860.250 updates the reference to the 1996 National Electrical Code

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for all installations after July, 1 1998. Specific requirements for all other installations including a power supply equal to the amperage requirements of the home located on the site are also new. The requirements for the size, type and location of conductors is added along with maintenance requirements of the electrical system.

Section 860.260 references the most current National Fire Protection Association's Standards (1992 edition) for the distribution, storage and use of natural gas, liquefied petroleum gas, fuel oil and other fuels is adopted by reference.

Section 860.270 adds requirements for fire hydrants or holding ponds, in addition to the existing fire safety requirements and specifies that flammable liquids and combustible materials must be stored at least five feet from the home.

In Section 860.300 several changes are being made to the solid waste disposal requirements.

Section 860.310 clarifies existing requirements for community appearance, references the Abandoned Mobile Home Act, and requires the licensee to repair porches and steps on individual homes. A new provision requires community owners to advise the Department's regional office if unoccupied, damaged homes cannot be repaired or removed within 60 days.

Section 860.320 clarifies site identification provisions by requiring that streets be named and signs provided and utility meters identify the site they serve.

Section 860.330 clarifies vector control provisions with a requirement that grass and weeds not be taller than 6 inches.

Section 860.340 adds a new provision allowing fences to be a maximum height of 6 feet. Existing rules allowed a height of 3.5 feet.

In Section 860.350, an existing requirement for 24 inch wide inspection doors in manufactured home skirting is maintained in the rules. However, an exception to the inspection door requirement is being added for homes installed prior to October 1997, that are not equipped with an inspection door. The community management will be responsible for providing access for Department inspection for such homes.

Section 860.360 adds a provision allowing recreational vehicles to be parked on licensed sites.

Section 860.370 adds a new requirement that animals be on leashes or in fenced areas.

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Section 860.380 adds a requirement for capping or plugging sewer riser, water service and fuel lines at vacant sites.

Section 860.390 add requirements applicable to duplex mobile homes.

Section 860.400 expands the information the community is required to provide to tenants. The community manager is required to have an answering machine if someone is not usually available to receive calls.

In Section 860.410 the items to be addressed in the community owners rules are clarified, but not substantially changed.

Section 860.420 adds a new reference to the community register requirements in the Mobile Home Park Act.

Section 860.430 adds new provisions requiring the community management to inspect the community at least weekly. A new provision will require community management to correct violations that tenants are responsible for but have not corrected.

Section 860.500 clarifies existing provisions for requesting variances.

Section 860.510 clarifies the right of the individual to request an administrative hearing prior to adverse licensure action.

Section 860.520 adds a provision from the Mobile Home Park Act allowing common operation of a manufactured home community consisting of contiguous tracts of land that are separately owned but maintained and operated jointly.

Section 460.530 was added as a new Section to clarify which requirements of the rules are applicable to existing communities.

16) Information and Questions Regarding these Adopted Amendments shall be directed to:

Gail M. Devito
Administrative Rules Coordinator
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-2043

The full text of the Adopted Rules begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER q: MOBILE HOMES

PART 860

MANUFACTURED HOME COMMUNITY CODE

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| ILLUSTRATION E | Sample Register Information |
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AUTHORITY: Implementing and authorized by the Mobile Home Park Act [210 ILCS 115].

SOURCE: Adopted March 2, 1973; amended at 4 Ill. Reg. 46, p. 1286, effective January 1, 1981; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 17520, effective September 1, 1984; old Part repealed and new Part adopted at 22 Ill. Reg. 8863, effective MAY 11 1998.

SUBPART A: DEFINITIONS AND INCORPORATED MATERIALS

Section 860.10 Definitions

In addition to the definitions contained in the Mobile Home Park Act, the following definitions shall apply.

"Act" means the Mobile Home Park Act [210 ILCS 115].

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"Applicant" means any person making application for a license or permit.

"Community Public Water Supply System" means a system for the provision to the public of piped water for human consumption, if the system has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days per year. This includes any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control which are used in connection with such system.

"Director" means the Director of the Illinois Department of Public Health.

"License" means a certificate issued by the Department allowing a person to operate and maintain a manufactured home community under the provisions of the Act and this Part.

"Licensee" means any person to whom a license or permit has been issued under the Act.

"Manufactured Home" means a structure, transportable in one or more sections, which while in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Any home defined in the Act as a "mobile home" is defined as a "manufactured home" for the purposes of this Part.

"Manufactured Home Community" means a tract of land or two or more contiguous tracts of land that contain sites with the necessary utilities for five or more independent manufactured homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such manufactured home community. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home community if they are maintained and operated jointly. Neither an immobilized manufactured home nor a motorized recreational vehicle shall be construed as being part of a manufactured home community. Any community defined in the Act as a "mobile home park" is defined as a "manufactured home community" for the purposes of this Part.

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"Owner or Operator" means the licensee.

"Permit" means a certificate issued by the Department permitting the construction, alteration, or the reduction in number of sites of a manufactured home community under the provisions of the Act and this Part.

"Person" means any individual, group of individuals, association, trust, partnership, corporation, persons doing business under an assumed name, county, municipality, the State of Illinois, or any political subdivision or department thereof, or any other entity.

"Resident" means any person who occupies a manufactured home site for dwelling purposes.

"Service equipment" means the necessary electrical equipment, usually consisting of circuit breaker, or switch and fuses, and meter located near the point of entrance of supply conductors to the home and intended to constitute the main control and means of cutoff of the electrical supply.

"Special Flood Hazard Area" means an area that would be inundated by the base flood and shown as such on a Regulatory Flood Plain Map (published by the Illinois Department of Natural Resources, Division of Water Resources), a Flood Insurance Rate Map or a Flood Hazard Boundary Map, both published by the Federal Insurance Administration or the Federal Emergency Management Agency.

Section 860.20 Incorporated and Referenced Materials

The following standards of nationally recognized organizations and federal and State regulations are incorporated or referenced in this Part:

a) The following materials are incorporated by reference and include no later amendments or editions:

1) Standard Specifications for Water and Sewer Main Construction in Illinois, 1996 Edition published by:

Illinois Society of Professional Engineers

1304 South Lowell Avenue

Springfield, Illinois 62704

Referenced in Section 860.230.

2) Flood Insurance Rate Map and Flood Hazard Boundary Map published by:

Federal Insurance Administration

Region V

300 Wacker Drive, 24th Floor

Chicago, Illinois 60606

Referenced in Section 860.130.

3) National Electrical Code, 1996 Edition (NFPA 70-96) published by:

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National Fire Protection Association
Batterymarch Park

Quincy, Massachusetts 02269

Referenced in Section 860.250 and Appendix B.

4) Installation of Oil Burning Equipment, 1992 Edition (NFPA 31-92) published by:

National Fire Protection Association

Batterymarch Park

Quincy, Massachusetts 02269

Referenced in Section 860.260.

5) National Fuel Gas Code, 1992 Edition (NFPA 54-92) published by:

National Fire Protection Association

Batterymarch Park

Quincy, Massachusetts 02269

Referenced in Sections 860.160 and 860.260.

6) Storage and Handling of Liquefied Petroleum Gases, 1995 Edition (NFPA 58-95) published by:

National Fire Protection Association

Batterymarch Park

Quincy, Massachusetts 02269

Referenced in Section 860.260.

7) American Society of Testing and Materials, Standard Method of Test for Surface Burning Characteristics of Building Materials, Standard E84, published by:

American Society of Testing and Materials

1916 Race Street

Philadelphia, PA 19103

Referenced in Section 860.270.

8) Pipeline Safety Regulations, 4a, CFR Part 192

United States Department of Transportation

Office of Pipeline Safety

400 7th Street S.W.

Washington, D.C. 20590

Referenced in Section 860.260.

b) The following materials are referenced in this Part:

1) State of Illinois statutes

A) Illinois Architectural Practice Act of 1989 [225 ILCS 305]

Referenced in Section 860.120.

B) Illinois Professional Engineering Act [225 ILCS 325]

Referenced in Section 860.120.

C) Illinois Vehicle Code [625 ILCS 5/4-203]

Referenced in Section 860.310 and Appendix C.

D) Mobile Home Park Landlord and Tenant Act [765 ILCS 745]

Referenced in Section 860.400.

E) Abandoned Mobile Home Act [210 ILCS 117]

Referenced in Section 860.310.

F) Private Sewage Disposal Licensing Act [225 ILCS 225]

Referenced in Section 860.240.

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- G) Smoke Detector Act [425 ILCS 60]
Referenced in Section 860.410.
- H) Plumbing License Law [225 ILCS 320]
Referenced in Sections 860.230 and 860.240.
- I) Swimming Pool and Bathing Beach Act [210 ILCS 125]
Referenced in Sections 860.120 and 860.290.
- J) Illinois Mobile Home Tiedown Act [210 ILCS 120]
Referenced in Section 860.400.
- K) Illinois Municipal Code [65 ILCS 5/11-40-3]
Referenced in Appendix C.
- L) Counties Code [55 ILCS 5/5-1092]
Referenced in Appendix C.
- M) Townships Code [60 ILCS 1/30-130]
Referenced in Appendix C.
- 2) Department of Public Health regulations
- A) Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820)
Referenced in Section 860.290.
- B) Illinois Plumbing Code (77 Ill. Adm. Code 890)
Referenced in Sections 860.230, 860.240 and Appendix B.
- C) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
Referenced in Section 860.240.
- D) Drinking Water Systems Code (77 Ill. Adm. Code 900)
Referenced in Section 860.230.
- E) Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
Referenced in Section 860.230.
- F) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)
Referenced in Section 860.230.
- G) Surface Source Water Treatment Code (77 Ill. Adm. Code 930)
Referenced in Section 860.230.
- H) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
Referenced in Section 860.230.
- I) Mobile Home Tiedown Code (77 Ill. Adm. Code 870)
Referenced in Section 860.360.
- J) Rules for Practice and Procedure for Administrative Hearings (77 Ill. Adm. Code 100)
Referenced in Section 860.510.
- 3) Illinois Pollution Control Board regulations
- A) Public Water Supplies (35 Ill. Adm. Code Subtitle F)
Referenced in Section 860.230.
- B) Waste Disposal (35 Ill. Adm. Code Subtitle G)
Referenced in Section 860.240.
- C) Solid Waste and Special Waste Hauling (35 Ill. Adm. Code Subtitle G, Subchapter i)
Referenced in Section 860.300.
- 4) Illinois Environmental Protection Agency regulations

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- Illinois Recommended Standards for Sewage Works (35 Ill. Adm. Code 370)
Referenced in Section 860.240.
- 5) Materials of Other State Agencies
- A) Regulatory Flood Plain Map published by:
Illinois Department of Natural Resources
Division of Water Resources
310 South Michigan, Room 1606
Chicago, Illinois 60604
Referenced in Section 860.130.
- B) Statewide Permit Number 6, issued September 15, 1993 by:
Illinois Department of Transportation
Division of Water Resources
2300 South Dirksen Parkway
Springfield, Illinois 62764
Referenced in Section 860.130.

SUBPART B: PERMITS

Section 860.100 Required Permits

Section 4 of the Act specifies the information required to obtain a permit for the construction of a new manufactured home community. Section 4.2 of the Act contains the information required to obtain a permit for the alteration of an existing manufactured home community. Permits shall expire three years from the date of issuance. One three year extension may be granted upon written request. Section 4.3 of the Act contains the information required for a permit to reduce sites in an existing manufactured home community. Alternations to an existing manufactured home site or community must be performed in accordance with the Act and this Part. A permit is not required for routine maintenance and repairs.

Section 860.110 Applications

All permit applications shall be submitted in triplicate to the Department on a form furnished by the Department. The application shall indicate the number and identification of existing sites, new sites to be constructed, licensed sites to be altered or eliminated and the new total number of proposed licensed sites.

Section 860.120 Plans

Section 4(d) of the Act specifies that, for a new manufactured home community, plans must be prepared and sealed by an architect licensed under the authority of the Illinois Architectural Practice Act of 1989 or an engineer licensed under the authority of the Illinois Professional Engineering Act. The plans shall be drawn to scale. Two copies of the plans shall be submitted to the Department. The plans and application material shall contain, at a minimum, an

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overall manufactured home community plan and a typical site plan as follows:

- a) The overall manufactured home community plan shall include the following details for all proposed construction:
 - 1) The location and dimension of each proposed site;
 - 2) The location, width, type of surface material and traffic flow of all streets;
 - 3) The locations of all sidewalks and parking areas;
 - 4) The existing and proposed contours of the area, including an indication of any area in a flood plain;
 - 5) The locations, types, sizes and identification numbers of all water pipes; details of any private or semi-private water sources, sufficient to indicate compliance, and if the manufactured home community is served by a community public water supply system, the name of the system;
 - 6) The locations, types, sizes and identification numbers of all sewage pipes, details of all private sewage disposal systems sufficient to indicate compliance, and, if the manufactured home community is served by a public sewer system, the name of the system;
 - 7) The locations, types and sizes of all electrical conductors and equipment;
 - 8) The types, sizes, heights and locations of all proposed manufactured home community lighting;
 - 9) The sizes, locations and types of all fuel pipes; the locations and sizes of all fuel storage tanks;
 - 10) The locations of all recreational equipment, beaches, swimming pools, parks, and community buildings (Swimming pools and bathing beaches are subject to a separate construction permit as required by the Swimming Pool and Bathing Beach Act.);
 - 11) The general locations of all existing manufactured home sites and a description of how proposed utility extensions for new sites will be connected;
 - 12) The types, sizes and locations of all garbage containers and the frequency of garbage collection;
 - 13) The types, sizes and locations of any storm drainage pipes;
 - 14) The locations of fire hydrants and holding ponds and the name of the fire department that serves the manufactured home community; and
 - 15) The locations of all easements.
- b) The typical manufactured home site plan shall include the following:
 - 1) Size, type and location of the foundation system for the home;
 - 2) Details and locations of sewer, water and gas piping, showing the height of the risers, the distance between them, and any valves;
 - 3) For private sewage disposal systems, detailed drawings of the proposed system showing the distances between components of the system and potable water systems or bodies of water, soil type and/or percolation rates, depth of ground water table, and size of system components (When a permit for construction of a private

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sewage disposal system has been obtained or is pending from a unit of local government, a copy of the permit or permit application shall be submitted.); and

- 4) Types, locations and ratings of electrical service equipment and conductors with indication of the method of grounding.

Section 860.130 Flood Plain Requirements

Prior to the issuance of a construction permit, the permit applicant shall submit with the application a completed "Special Flood Hazard Area Request Form" provided by the Department. If the site is within a Special Flood Hazard Area, the applicant shall forward the plans for the project to the Illinois Department of Natural Resources, Division of Water Resources. No project to be located in a Special Flood Hazard Area shall be issued a permit without a copy of a statement from the Division of Water Resources that the construction complies with the requirements of Executive Order 79-4, effective May 31, 1979. Construction of items such as water wells, septic tanks, underground utilities, light poles, pavilions, playground equipment, sidewalks and driveways as specified in Statewide Permit Number 6, issued by the Division of Water Resources, September 15, 1993, are exempt from the requirements of this Section.

Section 860.140 Occupancy of New Sites

No manufactured home shall be placed on a site that has not been licensed by the Department. Upon the completion of the construction of new sites, the Department's regional office shall be contacted (see Section 860. Appendix A) to arrange for an inspection. After approval is granted by the inspector, the fee for the license for the new site(s) shall be submitted before the new site(s) shall be licensed or occupied.

Section 860.150 Immobilization

Sites with immobilized manufactured homes are exempt from licensure by the Department. In order for a home to be considered immobilized, the following conditions must be met:

- a) The home shall be provided with individual utilities as defined in Section 2.8 of the Act.
- b) The wheels, tongue, and hitch shall be removed and the home shall be supported by a continuous perimeter foundation of material such as concrete, mortared concrete block, or mortared brick which extends below the established frost depth. The home shall be secured to the continuous perimeter foundation with 1/2 inch foundation bolts spaced every 6 feet and within one foot of the corners. The bolts shall be imbedded at least 7 inches into concrete foundations or 15 inches into block foundations.

Section 860.160 Deletion of Sites

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Section 4.3 of the Act specifies the requirements that must be followed to reduce the number of licensed sites. In addition, the following conditions shall be met:

- a) The utilities shall be disconnected as follows:
 - 1) The water service shall be shut off and capped below the frost depth and the riser shall be removed;
 - 2) The sewer pipe shall be cut below the ground level and sealed to prevent sewer gas from escaping;
 - 3) The electrical supply to the site shall be disconnected and the service equipment shall be removed;
 - 4) Any natural gas to the site shall be disconnected below grade and sealed in accordance with the National Fuel Gas Code; and
 - 5) Any propane tanks and the piping thereto shall be removed.
- b) The home shall be removed and the site shall be cleared of any debris or abandoned equipment.
- c) The deletion shall not commence until an application for a permit to alter has been submitted and written approval has been issued by the Department. Upon completion of the deletion, the Department's regional office shall be contacted to determine compliance with the requirements of this Section. Upon approval, the next year's license shall reflect the new number of sites. If the reduction results in fewer than five licensed sites, the manufactured home community is no longer subject to licensure and the existing license shall automatically become void upon approval of the reduction.

SUBPART C: REQUIREMENTS OF THE MANUFACTURED HOME COMMUNITY

Section 860.200 Layout of the Manufactured Home Community

- a) All areas of the manufactured home community shall be drained to prevent ponding of water. If necessary, a storm drainage system shall be installed.
- b) Section 9.3 of the Act specifies the minimum square footage of each site and the location of the homes on the site. (See Section 860.111, Illustrations A and B.) There shall be a minimum street frontage of 25 linear feet for each site.
- c) Manufactured homes located on sites constructed prior to July 1, 1998 shall be at least 5 feet from the property line of the manufactured home community and 10 feet from any public street, alley, or building. There shall be a minimum separation of 10 feet from the side of a manufactured home to another manufactured home and a minimum of 5 feet from the end of a manufactured home to another manufactured home.
- d) Manufactured homes located on sites constructed after July 1, 1998 shall be located at least 5 feet from the manufactured home community property line, 10 feet from public or private streets, alleys, buildings or other manufactured homes, and shall not extend over a sidewalk.
- e) All portions of sheds, carports, garages, porches and similar

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structures constructed after July 1, 1998 shall be at least 3 feet from the manufactured home community property line, 5 feet from any other structure on adjacent sites, and 10 feet from all streets. For corner sites sheds shall be at least 3 feet from all streets. Existing portions of sheds, carports, garages, porches, and similar structures may be replaced at the same location without complying with the requirements of this subsection (e).

- f) When questions arise concerning the property lines of the manufactured home community, the licensee shall be responsible for identifying the legal location.

Section 860.210 Support Systems

- a) Sites on which homes are installed prior to July 1, 1998 shall have a support system as required by the Mobile Home Park Code in effect at the time of the installation.
- b) Homes installed after July 1, 1998, shall be installed on a level support system capable of supporting the design load of the home. The support system shall consist of a minimum 3 1/2 inches thick concrete pad, runners or pier. The support system shall be placed on undisturbed soil or compacted material. Alternative equivalent systems may be submitted for approval by the Department. Pads shall be the approximate dimension of the home. Runners shall be either parallel or perpendicular to the length of the home. Runners that are parallel with the length of the home shall be a minimum of 20 inches wide, extend the approximate length of the home and be located so that blocking rests entirely on the runners. Runners that are perpendicular to the length of the home shall be a minimum of 12 inches wide, extend the approximate width of the home and be spaced at maximum eight feet intervals center to center along the length of the home. Pier blocks shall bear entirely on the pier support system. The manufactured home community owner is responsible for determining that the support system is adequate for the specific soil conditions. A copy of manufactured home installation guidelines is available from the Department.
- c) The support system can extend below the frost depth to prevent the home from shifting as a result of the freezing and thawing of the soil. The entire support system must be installed at the same approximate depth to prevent damage to the home from frost heave. The ground and impervious surfaces surrounding the perimeter of the home shall be sloped to direct all surface water away from the home for sites constructed after July 1, 1998.

Section 860.220 Streets and Parking

- a) All streets shall be maintained reasonably free of potholes, snow, and dust. Streets constructed after July 1, 1998 shall be constructed of rock and oil, asphalt or concrete.

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- b) The minimum road width shall comply with Section 860. Table A.
- c) At least two parking spaces shall be provided for each site constructed after July 1, 1998. At least one space shall be available for all other sites. Parking spaces on streets must be a minimum of 18 feet in length.

Section 860.230 Water

- a) Potable water shall be provided at each site. The source of the water shall be either a community public water supply system regulated by the Illinois Environmental Protection Agency (35 Ill. Adm. Code, Subtitle F) or a system regulated by the Department. Systems regulated by the Department shall comply with one of the following:

- 1) The construction and water quality requirements of the Drinking Water Systems Code (77 Ill. Adm. Code 900) shall be met.
- 2) Water wells shall be located and constructed in accordance with the Illinois Water Well Construction Code (77 Ill. Adm. Code 920) and water well pump installation shall comply with the Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925).
- 3) Surface water supply systems shall be constructed and operated in accordance with the Surface Source Water Treatment Code (77 Ill. Adm. Code 930).

- b) The water distribution system shall be subject to the following requirements:

- 1) If the system is connected to a community public water supply system and has one main water meter, the distribution system beyond the main meter shall be subject to the requirements of the Drinking Water Systems Code and the Illinois Plumbing Code and shall be installed and maintained by a licensed Illinois plumber in accordance with the Illinois Plumbing License Law.

- 2) If the system is connected to a community public water supply system and the residents are billed by the manufactured home community owner for the water based on the readings from the meters at each site, the manufactured home community owner is considered a water supplier and is subject to the requirements of the Illinois Environmental Protection Agency. The distribution system up to the individual service line to each home shall be subject to the requirements of the Illinois Environmental Protection Agency.

- 3) If the park is served by its own community public water supply system, or the manufactured home community is connected to a community public water supply without a main meter for the manufactured home community, the distribution system up to the individual service line to each home shall be subject to the requirements of the Illinois Environmental Protection Agency.

- c) Water distribution systems not subject to the requirements of the Illinois Environmental Protection Agency shall be designed and constructed in compliance with the requirements of the Drinking Water

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Systems Code and the Illinois Plumbing Code and shall be installed and maintained by a licensed Illinois plumber in accordance with the Illinois Plumbing License Law.

- 1) The following additional requirements shall be met for all distribution systems:

- A) The distribution system shall supply water to each site at a minimum pressure of 20 pounds per square inch during periods of peak usage. A pressure reducing valve shall be installed if the pressure exceeds 80 pounds per square inch. The distribution pipe shall be looped, whenever possible, and dead end mains shall be equipped with flush hydrants or equivalent.

- B) All water lines under the home shall be protected from freezing. The manufactured home community rules (Section 860.410) shall address the resident's responsibility concerning protection of water lines from freezing. If heat tapes are used, they must be listed for use for manufactured homes and installed according to the manufacturer's instructions.

- 2) The following requirements shall be met for distribution systems constructed after July 1, 1998:

- A) The water main distribution pipe shall be sized in accordance with Table B and be of approved material listed in the "Standard Specifications for Water and Sewer Main Construction in Illinois", 1996 Edition.

- B) Water mains must include flush hydrants or equivalent at a minimum of every 600 feet and at dead ends of piping. Flushing hydrants shall be sized to provide flows that will give a mean velocity of at least 2 1/2 feet per second in the distribution piping being flushed.

- C) Each site shall be served with a separate minimum 3/4 inch inside diameter service connection.

- D) All water risers shall be at least 3/4 inch inside diameter, terminate at least 4 inches above the finished grade, and be separated at least 10 feet horizontally from the sewer riser.

- E) An approved shut-off valve shall be provided near the street or site line for installations after July 1, 1998.

- d) The manufactured home community owner shall be responsible for sampling of the water supply system as required by the Department. Routine water sampling will not be required by the Department for water supplies regulated by the Illinois Environmental Protection Agency.

- e) If the water distribution system is not regulated by the Illinois Environmental Protection Agency, the following requirements shall be met. When a break occurs in the manufactured home community's distribution system or the pressure in the water distribution system is below the minimum 20 pounds per square inch, the Department's

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- regional office (see Section 860.Appendix A) shall be notified by telephone within 24 hours or the next business day. The affected residents shall be notified immediately by the manufactured home community management of the need to boil their water for three minutes before drinking it. A sign shall be posted at the entrance(s) of the manufactured home community. The Department shall advise the manufactured home community when the boil order can be lifted.
- f) All water leaks in the water distribution system, including those under the manufactured home, shall be repaired within 72 hours after notification from a resident or a Department representative.
- g) Notification of planned water supply interruptions for periods greater than one hour shall be provided by the manufactured home community management to the residents affected by the interruption.

Section 860.240 Sewage

- a) All sewage generated within a manufactured home community shall discharge into an approved sewage disposal system.
- 1) A sewage disposal system designed to discharge below ground, or to the ground surface with a flow of less than 1,500 gallons per day, shall be regulated by the Department and must meet the requirements of the Private Sewage Disposal Code.
- 2) A sewage disposal system or group of systems installed after July 1, 1998 designed to discharge 1,500 or more gallons per day to the ground surface shall meet the requirements of the Illinois Pollution Control Board (35 Ill. Adm. Code 309.102(a) and (b)).
- b) A sewage collection system shall meet the following requirements:
- 1) A minimum 4 inch inside diameter sewer riser extending at least 4 inches above the finished grade level shall be provided at each site. The material for the building drain and sewer riser must be approved building drainage pipe material as specified in Section 890, Table A of the Illinois Plumbing Code and shall be installed by an Illinois licensed plumber. The connection between the riser and the manufactured home sewer pipe shall be watertight and odor tight. A watertight and odor tight cap or plug shall be installed on all sewer risers that are not in use. Provisions shall be included to allow for vertical movement due to frost heave if the home is not supported below the frost depth. (See Section 860, Illustration D.)
- 2) The building sewer piping must be approved building sewer material as specified in Section 890, Table A of the Illinois Plumbing Code and meet the requirements of Section 860, Table C.
- 3) The construction and installation of the sewer mains and lift stations must meet the requirements of the Illinois Environmental Protection Agency (35 Ill. Adm. Code 370, Illinois Recommended Standards for Sewage Works) for construction after July 1, 1998. Manholes shall be provided at every change in direction or grade of every main sewer line, at the upper end of every main sewer

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- line, at every junction of two or more branch sewers, and at intervals of not more than 400 feet. Cleanouts extending to grade level may be used instead of manholes on sewer lines less than 8 inches in diameter, and shall be at intervals of not more than 100 feet.
- c) Malfunctioning sewage disposal systems shall be repaired and maintained in compliance with the requirements specified in subsection (a) of this Section. Within 48 hours after notification from a resident or a Department representative, untreated sewage on the ground as a result of a malfunction shall be removed to the extent possible and the contaminated ground surface shall be covered with lime or similar material.

Section 860.250 Electrical

a) New Installations

- 1) All electrical distribution systems constructed or replaced after July 1, 1998 shall be designed and constructed to conform to the requirements of the National Electrical Code, 1996 Edition. Article 550-C of the National Electrical Code contains specific requirements for manufactured home communities. (See Section 860, Appendix B.)

- 2) For homes installed after July 1, 1998, the manufactured home community licensee shall be responsible for providing electrical service equipment at least equivalent to the ampere capacity of the home which it serves.

b) Existing Installations

The following minimum requirements shall apply to electrical systems installed prior to July 1, 1998:

- 1) The electrical distribution system to the manufactured home sites shall be single phase, 120/240 volts nominal.
- 2) The type, size, installation and location of all conductors shall comply with their approved use as indicated in the edition of the National Electrical Code in effect at the time of construction.
- 3) The service equipment shall not be attached to the home, located under the home, or located anywhere that is not readily accessible. Obstructions such as bushes shall not be located within three feet of the front of the service equipment.
- 4) All electrical equipment installed outdoors shall be the weatherproof type. Equipment located under the home shall be protected from the weather.
- 5) The service equipment and any other electrical devices shall be at least 12 inches above grade and secured to prevent any movement.
- 6) The manufactured home feeder conductor shall be either a cord which meets the requirements of the manufacturer of the home or a permanently installed feeder as specified by the National Electrical Code in effect at the time of installation.

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- 7) All circuits at the service equipment shall be protected by over-current protection as required by the National Electrical Code in effect at the time of installation.
- 8) Overhead conductors shall provide an 18 foot vertical clearance over all streets, a 12 feet clearance over driveways, and a 10 feet clearance above grade in all other areas. Electrical conductors emerging from the ground shall be protected by enclosures or raceways for direct buried cable or to the approved buried depth for protected conductors and up to a point 8 feet above grade. Acceptable protection shall be rigid metal, intermediate metal or Schedule 80 non-metallic conduit or channel. Manufactured home power supply cords need not be enclosed in conduit or raceways.
- c) Maintenance of All Systems
 - All electrical systems shall be maintained in a safe condition. All damaged or defective equipment shall be repaired or replaced, all loose equipment shall be secured, all faceplates and panel fronts shall be in place and all live parts shall be covered to prevent accidental contact. Dead tree branches which overhang distribution wiring shall be removed. All components of the manufactured home community electrical system shall be inspected by the manufactured home community management and it shall be the responsibility of the licensee to have any defects corrected.

Section 860.260 Fuel Supply

The distribution, storage, and use of natural gas, liquefied petroleum gas, fuel oil, or other fuels shall be in accordance with the following:

- a) The National Fire Protection Association's Installation of Oil Burning Equipment, 1992 Edition.
- b) The National Fire Protection Association's National Fuel Gas Code, 1992 Edition.
- c) The National Fire Protection Association's Storage and Handling of Liquefied Petroleum Gases, 1995 Edition.
- d) The United States Department of Transportation's Pipeline Safety Regulations.

Section 860.270 Fire Safety

- a) Bales of straw or other flammable materials that do not meet the requirements of subsection (b) of this Section shall not be used for skirting or insulation of the manufactured home.
- b) Garages, carports, porches, awnings, sheds, skirting and other similar appurtenances shall be constructed of material designed for exterior use that meets the flame spread rating of 200 or less in accordance with the American Society of Testing and Materials, Standard Method of Test for Surface Burning Characteristics of Building Materials (Standard E84).

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- c) Manufactured home communities constructed after July 1, 1998 must be located in a fire protection district and provided with fire hydrants within 500 feet of any structure in the manufactured home community. As an alternative to fire hydrants, a holding pond or other source of water of 100,000 gallons or more accessible to the fire department may be used, if the fire department is capable of pumping from the body of water.
- d) Flammable liquids and gasoline-powered equipment other than motorized vehicles shall not be stored within five feet of a manufactured home, except when stored in a shed or garage.
- e) All intended means of egress shall not be obstructed.

Section 860.280 Lighting

Communities constructed after July 1, 1998 shall have an average illumination level of at least 0.6 foot candles and a minimum illumination level of 0.3 foot candles maintained for all streets in the manufactured home community. To achieve this level of illumination, the following are acceptable:

- a) The use of a 175 watt mercury or sodium vapor lamp or a 600 watt tungsten lamp, at an elevation of 25 feet, every 250 feet.
- b) Yard lights, at each site, having an average equivalent illumination of a 100 watt electric light bulb.

Section 860.290 Pools and Beaches

Swimming pools and bathing beaches, if provided, shall be constructed and operated in accordance with the Illinois Swimming Pool and Bathing Beach Code. Separate construction permits and licenses are required in accordance with the Swimming Pool and Bathing Beach Act.

Section 860.300 Solid and Landscape Waste

- a) All garbage and refuse shall be stored and disposed of so as not to create a nuisance or a health threat.
 - 1) Garbage must be stored in rust resistant, watertight and fly-proof containers with the lids closed.
 - 2) Garbage containers must be stored at least 6 inches off the ground surface or on an impervious surface.
 - 3) Garbage containers must be emptied at least once a week.
 - 4) A minimum capacity of 40 gallons per occupied site per week shall be provided, according to the manufactured home community rules in Section 860.410. Sealed bags can be utilized to supplement the required containers on the day of garbage collection only. A single 20 gallon container is acceptable if emptied twice a week.
 - 5) Individual containers shall be available at each site or bulk containers shall be located within 250 feet of any home. Upon request, the Department shall grant a variance, under the provisions of Section 860.500, to allow bulk containers to be

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located more than 250 feet from a home, provided that the Department receives written assurance that the location of the containers is acceptable to the residents whose homes will be more than 250 feet from the containers. There is no distance limitation for bulk containers used by the manufactured home community management to empty individual containers.

- 6) Garbage and refuse shall be disposed of in accordance with the requirements of the Illinois Pollution Control Board (35 Ill. Adm. Code Subtitle G).
- b) Landscape waste (leaves, brush, and grass) shall be stored separately from garbage in cans or bags if required by local authorities. Large branches do not need to be placed in a container prior to disposal. If landscape waste burning is permitted by the local jurisdiction, all fires must be located at least 30 feet from any structure.

Section 860.310 Manufactured Home Community Appearance

- a) Household furniture and appliances, auto parts including tires and batteries, building materials, abandoned equipment and similar items shall not be stored within the manufactured home community except in sheds or garages with doors. If the above items are to be discarded, they must be removed from the manufactured home community within 7 days. Precautions shall be taken to prevent entrapment of children in or under any appliance that is being discarded.
- b) Abandoned homes as defined in the Abandoned Mobile Home Act shall be removed from the manufactured home community. Damaged homes shall be repaired or removed within 60 days after the date damaged. The manufactured home community owner shall advise the Department's regional office in writing if removal cannot be accomplished within 60 days, the reason for the delay and the expected date of compliance.
- c) Trees and bushes shall not interfere with normal pedestrian and vehicular traffic. Branches shall not touch the roofs of any structure. Dead trees and branches shall be removed.
- d) Any abandoned or unused automobile or piece of equipment having the appearance of being abandoned shall be removed from the manufactured home community. All automobiles, trailers and similar vehicles subject to licensure by the Secretary of State shall have current licenses displayed. The Illinois Vehicle Code specifies the penalty for abandoning automobiles and the provisions for their removal by the manufactured home community management. (See Section 860. Appendix C.)
- e) All open excavations must be barricaded to prevent access.

Section 860.320 Identification of Sites

All sites shall be identified with a legible reflective or contrasting number or letter a minimum of three inches in height. This identification shall be at the same location for each site and visible from the street. There shall be a logical order for the identification of the sites. Previous addresses on homes

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relocated to the manufactured home community shall be removed. Street signs shall identify all streets that have names. The licensee shall maintain a plan of the manufactured home community indicating the labeling system, a copy of which shall be available to the Department upon request. All electric and natural gas meters must be identified for the site for which they serve. If there is no identification for a vacant site, a temporary identification shall be provided.

Section 860.330 Vector Control

The management of the manufactured home community shall take the following measures to prevent insects and rodents in the manufactured home community in addition to requirements specified in other Sections of this Part:

- a) Areas of ponding water and items which hold water such as tires shall be eliminated;
- b) Grass and weeds shall not exceed six inches in height;
- c) Firewood shall be stacked at least six inches above the ground or on an impervious surface such as concrete; and
- d) The manufactured home community shall be cleared daily of animal excrement.

Section 860.340 Fences

Fences on individual lots, if permitted by the manufactured home community owner and the local jurisdiction, shall meet the following provisions:

- a) Fences shall not exceed six feet in height.
- b) Fences shall be sturdy and not present a safety hazard.

Section 860.350 Inspection Doors

If manufactured home skirting is provided, a sliding or hinged inspection door at least 24 inches wide and the approximate height of the skirting shall be provided near the utility connections to the home. Interlocking skirting with panels removable without the use of tools is acceptable. For homes installed prior to July 1, 1998 and not provided with an inspection door, the manufactured home community management, upon request from a Department representative, shall remove the skirting to allow for an inspection under the home.

Section 860.360 Recreational Vehicles

- a) If approved by the manufactured home community owner, a non-motorized recreational vehicle that meets the following criteria may be located in a manufactured home community as a residence:
 - 1) The vehicle contains toilet and bathing facilities;
 - 2) The vehicle is connected to the required utilities in a permanent fashion as prescribed in this Part;
 - 3) The vehicle is intended to be occupied by the same person or

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- persons for at least two consecutive months at one location; and
- 4) If larger than 8 feet by 32 feet, the vehicle shall be secured as specified in the Mobile Home Tiedown Code (77 Ill. Adm. Code 870).
 - b) Motorized recreational vehicles shall not be located in a manufactured home community as a residence.

Section 860.370 Animal Control

All animals must be confined in a fenced area or on a cable or similar restraint at all times the animals are outdoors.

Section 860.380 Vacant Sites

When a home is moved from a site, the sewer riser shall be capped or plugged with a watertight and odor-tight fitting. The water shall be shut off and the water line plugged or capped. In freezing weather, the water line must be drained or insulated to prevent breakage. All lines for natural gas, propane and other fuels shall be shut off and plugged or capped. Section 860.160 contains the requirements for deletion of sites.

Section 860.390 Duplex Units

Duplex manufactured homes located in a manufactured home community must have separate water, sewer and electrical services for each resident and a one-hour, fire-rated assembly shall separate the units. Sites with a duplex unit shall be considered as two sites for licensure purposes.

SUBPART D: ADDITIONAL RESPONSIBILITIES OF THE LICENSEE

Section 860.400 Required Documents

- a) Upon initial admittance to the manufactured home community, a new resident shall be provided a copy of the manufactured home community rules (Section 860.410).
- b) The manufactured home community owner or manager shall provide a resident of each site with a copy of the Department's publication "Living in a Manufactured Home Community", which contains information regarding the tiedown of homes, safety tips in the event of a tornado, and a copy of the Mobile Home Landlord and Tenants Rights Act.
- c) A copy of the Mobile Home Park Act and the Manufactured Home Community Code shall be available from the manufactured home community owner or manager for inspection by manufactured home community residents. Copies may be obtained from any of the Department's offices indicated in Section 860. Appendix A.
- d) The name, address, and telephone number of the manufactured home community manager whom residents are to notify of a problem within the manufactured home community shall be provided to each resident. An

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answering machine shall be connected to the manufactured home community manager's phone if someone is not normally available to answer the calls.

Section 860.410 Manufactured Home Community Rules

The manufactured home community owner shall establish and enforce rules governing the resident's responsibilities for maintaining the manufactured home community. The rules established by the manufactured home community owner shall include the control of pets, the storage of garbage, the disposal of abandoned equipment and appliances, the construction of auxiliary structures and fences, the necessity of keeping all vehicles currently licensed, the policy for performing vehicle repairs, the control of the growth of weeds and grass, the storage of firewood, the control of insects and rodents, the need to provide access under the home, the protection of water pipes from freezing, the repair of the residents' water and sewage leaks, the maintenance of the electrical equipment, the maintenance of homes and auxiliary structures, the requirement for the resident to provide fire extinguishers in the home as required by Section 9 of the Act, the requirements for compliance with the Smoke Detector Act, and all other rules necessary to maintain the manufactured home community in compliance with the Act and this Part. Provisions shall be included in the manufactured home community rules to inform residents that the park management will correct violations that have not been corrected by the resident.

Section 860.420 Register

A manufactured home community register shall be maintained by the manufactured home community manager as specified in Section 13 of the Act. The register shall contain acknowledgment by the resident that the information required in Section 860.400 was provided. (See Section 860. Illustration E.)

Section 860.430 Inspections by Manufactured Home Community Management

The manufactured home community owner or manager shall inspect the manufactured home community at least weekly to determine the occurrence of any violations of the Department's requirements in the Act and this Part. The residents shall be required to correct any violations that are their responsibility. If the residents fail to make the corrections, the management shall be responsible for correcting the violations or initiating action against the resident to get the violation(s) corrected. If this is not possible, the manufactured home community manager shall advise the Department in writing of the action initiated against the resident and the anticipated date of correction of the violations.

SUBPART E: ADMINISTRATIVE ACTION BY THE DEPARTMENT

Section 860.500 Variance Procedures

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The Department may grant a variance to a specific provision of this Part when the owner of a manufactured home community submits a written request for such variance to the Department, with drawings, specifications, documents, data, or calculations showing that the alternative methods or designs proposed will provide protection equivalent to compliance with the requirements of this Part. The capability of the proposed deviation to ensure protection equivalent to compliance with the requirements of this Part shall be the basis for approval or denial of a variance. The Department shall notify the applicant in writing of its decision to either grant or deny the variance within 60 days after receipt of the request. A variance must be requested and approved before the proposed activity may be implemented.

Section 860.510 Enforcement Action

Prior to the suspension, denial or revocation of a manufactured home community license or the denial of a request for a construction permit, the Department shall offer the person the right to request an administrative hearing. The Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) shall apply to all proceedings conducted under this Part.

Section 860.520 Common Operation

Section 2.5 of the Act states that separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home community if they are maintained and operated jointly. Common maintenance and operation shall include any of the following:

- A common name for the properties;
- A continuous numbering system for the sites;
- Common maintenance of the manufactured home community's roads, grass, and utilities; or
- Property rents paid to one individual or entity.

Section 860.530 Existing Communities

For existing communities, alterations shall not be required on items that were previously accepted by the Department, unless such items create a significant health or safety problem. A significant health or safety problem may include conditions such as improper sewage disposal, contaminated drinking water, unsafe electrical systems, or the location of existing auxiliary structures.

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Section 860.APPENDIX A Regional Offices of the Department

Rockford Region

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

Div. of Environmental Health

302 North Main Street

Rockford, IL 61103

(815) 987-7511

Springfield Region

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

Div. of Environmental Health

415 North University

Springfield, IL 62761

(217) 693-5360

Edwardsville Region

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

Div. of Environmental Health

2 Kettle River Drive

Edwardsville, IL 62034

(618) 656-6680

Joliet Region

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

Div. of Environmental Health

309 West Main

Joliet, IL 61759

(815) 993-7010

Hampden Region

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

Div. of Environmental Health

125 South First Street

Hampden, IL 61820

(217) 333-6914

East Chicago Region

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

Div. of Environmental Health

45 West Roosevelt Road

Building 5

East Chicago, IL 60185

(312) 293-6800

Central Office

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

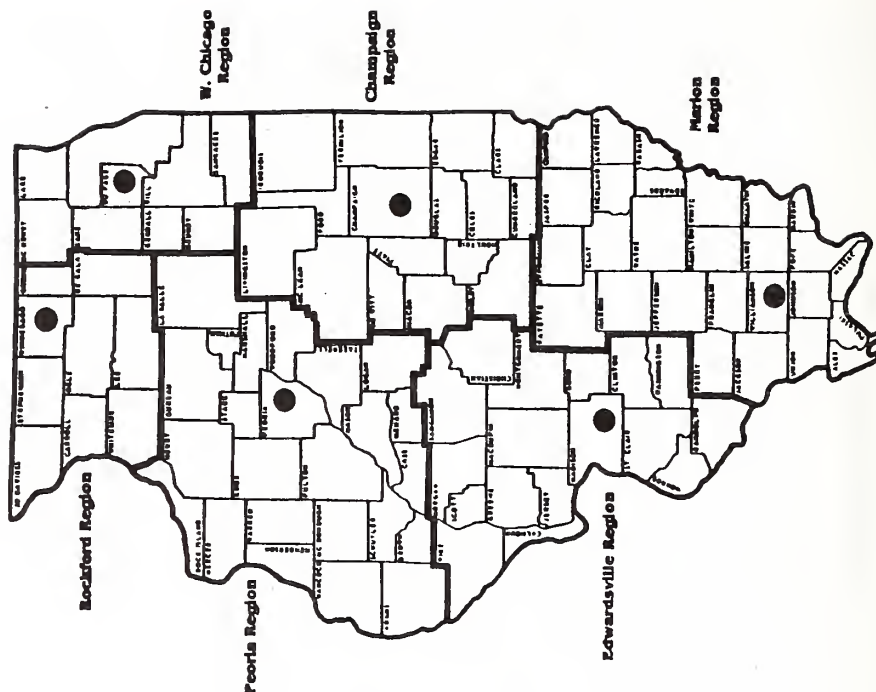
Div. of Environmental Health

125 West Jefferson Street

1st Floor

Springfield, IL 62761

(217) 782-5830



DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED RULES

| | | |
|-------------|-----|----------|
| 27 | 24% | 103,680 |
| 28 | 24% | 107,520 |
| 29 | 24% | 111,360 |
| 30 | 24% | 115,200 |
| 31 | 24% | 119,040 |
| 32 | 24% | 122,880 |
| 33 | 24% | 126,720 |
| 34 | 24% | 130,560 |
| 35 | 24% | 134,400 |
| 36 | 24% | 138,240 |
| 37 | 24% | 142,080 |
| 38 | 24% | 145,920 |
| 39 | 24% | 149,760 |
| 40 | 24% | 153,600 |
| 41 | 23% | 150,880 |
| 42 | 23% | 154,560 |
| 43 | 23% | 158,240 |
| 44 | 23% | 161,920 |
| 45 | 23% | 165,600 |
| 46 | 23% | 169,280 |
| 47 | 23% | 172,960 |
| 48 | 23% | 176,640 |
| 49 | 23% | 180,320 |
| 50 | 23% | 184,000 |
| 51 | 23% | 187,680 |
| 52 | 23% | 191,360 |
| 53 | 23% | 195,040 |
| 54 | 23% | 198,720 |
| 55 | 23% | 202,400 |
| 56 | 23% | 206,080 |
| 57 | 23% | 209,760 |
| 58 | 23% | 213,440 |
| 59 | 23% | 217,120 |
| 60 | 23% | 220,800 |
| 61 and over | 22% | 214,720+ |

2. The transformer shall be grounded as required by Article 250. This conductor shall be sized as required by Article 250-95.

SERVICE ENTRANCE CONDUCTORS

1. The service entrance conductor may either be overhead (see Article 230-B) or underground (see Article 230-C) (See Section 860. Illustration F).
2. The service entrance conductor shall contain a minimum of 2 hot conductors and 1 neutral, all individually insulated. Section 310-15 indicates the requirements and Table 310-16 specifies the minimum size

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Section 860.APPENDIX B Explanation of the 1996 National Electrical Code Requirements for Manufactured Home Communities

All electrical distribution systems constructed or repaired after July 1, 1998 must meet the requirements of the 1996 National Electrical Code. Section 860.Illustration F contains a diagram of the electrical system in the manufactured home community. The following is an explanation of some of the specific requirements of the National Electrical Code.

TRANSFORMERS

1. Article 550-22(a) of the National Electrical Code requires, as a minimum, that the transformer be sized on the larger of (1) 16,000 volt-amperes (at 120/240 volts) for each manufactured home site or (2) the load calculated in accordance with Section 550-13 for the largest typical home that each site will accept. Table 550-22 contains the minimum demand factors. The following are examples:

Minimum Capacity
of Transformer
(volt - amperes)

Number of Sites x Demand Factor =

| | | |
|----|------|--------|
| 1 | 100% | 16,000 |
| 2 | 55% | 17,600 |
| 3 | 44% | 21,120 |
| 4 | 39% | 24,960 |
| 5 | 33% | 26,400 |
| 6 | 29% | 27,840 |
| 7 | 28% | 31,360 |
| 8 | 28% | 35,840 |
| 9 | 28% | 40,320 |
| 10 | 27% | 43,200 |
| 11 | 27% | 47,520 |
| 12 | 27% | 51,840 |
| 13 | 26% | 54,080 |
| 14 | 26% | 58,240 |
| 15 | 26% | 62,400 |
| 16 | 25% | 64,000 |
| 17 | 25% | 68,000 |
| 18 | 25% | 72,000 |
| 19 | 25% | 76,000 |
| 20 | 25% | 80,000 |
| 21 | 25% | 84,000 |
| 22 | 24% | 84,400 |
| 23 | 24% | 88,320 |
| 24 | 24% | 92,160 |
| 25 | 24% | 96,000 |
| 26 | 24% | 99,840 |

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of the underground conductors and Tables 310-17, 18 and 19 contain the minimum size of the overhead conductors.

3. Service entrance conductors shall not be spliced (Article 230-46).
4. Overhead conductors must meet the clearance requirement of Article 230-24 (18 feet clearance over streets, 15 feet over driveways, and 10 feet elsewhere). Be advised that height requirements are dependent on the voltage the conductors are carrying.
5. Direct buried cables must be buried a minimum of 24 inches. Rigid metal or intermediate metal conduit must be buried at least 6 inches. See Table 300-5 for other requirements.
6. Conductors emerging from the ground must be protected by enclosures or raceways extending 18 inches below grade for direct buried cable or to the approved buried depth for protected cable and up to a point 8 feet above grade. Acceptable protection shall be rigid metal conduit, intermediate metal conduit or Schedule 80 rigid non-metallic conduit.

SERVICE EQUIPMENT

1. The service entrance equipment must be readily accessible within 30 feet of the home it serves or a properly grounded disconnecting means within 30 feet of the home must be provided (Article 550-23(a)).
2. The service entrance equipment must be rated at least 100 amperes. The equipment may include up to a 50 ampere receptacle if the proper over-current protection is provided (Article 550-23(b)).
3. The equipment must also include provisions for a branch circuit to serve any auxiliary structures or equipment such as yard lights and lawn maintenance equipment (Article 550-23(c)).
4. All 15 and 20 ampere receptacles installed outdoors must be protected by approved ground-fault circuit protection for personnel (Article 550-23(d)).
5. The required disconnection means shall be located between 2 feet and 6 1/2 feet from the ground (Article 550-23(e)).
6. The service equipment shall be grounded as required by Article 250-32. See Section 250-H for the requirements of the grounding electrode system.

FEEDERS

1. The manufactured home feeder conductor may either be a factory

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installed cord or a permanently installed feeder. Either shall contain 4 continuous insulated color coded conductors, one which shall be the grounding conductor (Article 550-24).

2. The feeders may be overhead or underground. Similar requirements for clearances and size of the conductors apply as indicated for the service conductor.
3. Underground feeders may be directly buried if they bear a UF or USE marking. Otherwise they must be protected as required by Table 300-5.
4. The underground feeders must be protected as required by Article 300-5(d) where it emerges from the ground both at the service equipment and under the home. Because the home may be subject to vertical movement due to the freezing of the soil, provisions shall be made to allow for this movement without causing damage to the conductors.

DISTRIBUTION PANEL

The wiring of the distribution panel, which is located in the home, is not within the Illinois Department of Public Health's jurisdiction. However, it is important that the following provisions of Article 550-11 be met.

1. The white (neutral) conductor is required to be run from the "insulated busbar" in the manufactured home panel to the service entrance equipment, where it is connected to the terminal at the point of connection to the grounding electrode conductor.
2. The green (grounding) conductor is required to be run from the "panel grounding bus" in the manufactured home to the service entrance equipment, where it is connected to the neutral conductor at the point of connection to the grounding electrode conductor.
3. The requirements provide that the grounded (white) conductor and the grounding (green) conductor be kept separate within the manufactured home structure and only connected at the service entrance equipment in order to secure the maximum protection against electric shock hazards if the supplied neutral conductor should become open.
4. The grounded circuit conductor (neutral) shall be insulated from the grounding conductors and from equipment enclosures and other grounded parts. The grounded (neutral) circuit terminals in the distribution panelboard shall be insulated from the equipment enclosure.
5. The green colored grounding wire in the feeder shall be connected to the grounding bus in the distribution panelboard.

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6. All exposed non-current-carrying metal parts that may become energized shall be effectively bonded to the grounding terminal of the distribution panelboard. A bonding conductor shall be connected between each distribution panelboard and an accessible terminal on the chassis.

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Section 860.APPENDIX C Unlicensed Motor Vehicles

Section 860.310(d) of the Manufactured Home Community Code prohibits unlicensed vehicles in manufactured home community. This includes cars, trucks, motorcycles and trailers. While it is the manufactured home community owner's responsibility to assure compliance with this requirement, the manufactured home community owner may have legal difficulties in getting an unlicensed vehicle either licensed or removed within the time period allotted by the Department (usually 30 days). The Department recognizes this problem and encourages an investigation into the following possibilities.

1. The rules of the particular manufactured home community should prohibit unlicensed vehicles from being located in the manufactured home community and contain language that allows the manufactured home community owner to have unlicensed vehicles towed at the owner's expense after seven days written notice is provided. The resident should sign an acknowledgment and agreement to the rules.
2. Effective January 1, 1988, the local governmental jurisdiction has the authority to adopt an ordinance to permit it to tow inoperable motor vehicles and their parts after seven days written notification to the owner. Manufactured home community owners should encourage local jurisdictions to adopt such an ordinance and then advise the authorities when enforcement action needs to be initiated by the local authorities. The language describing this authority is contained in three particular laws for municipalities [65 ILCS 5/11-40-3], for counties [55 ILCS 5/5-1092] and for townships [60 ILCS 1/30-130]. This pertains only to inoperable vehicles but includes those on both public and private property.
3. Section 4-203 of the Illinois Vehicle Code [625 ILCS 5/4-203] contains provisions that allow a manufactured home community owner to immediately tow an unlicensed vehicle if the owner has a sign posted as specified in the Illinois Vehicle Code.
4. The American Lung Association has a Vehicle Donation Program. For more information contact the American Lung Association, Vehicle Donation Program, #1 Christmas Seal Drive, P.O. Box 2576, Springfield, Illinois 62708-2576, or call 1-800-583-4425.
5. The National Kidney Foundation of Illinois, Inc. has a car donation program. Call 1-800-488-CARS for details.

NOT A PUBLIC HEALTH LAW

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Section 860.APPENDIX D Home Rule Units

Section 26 of the Mobile Home Park Act exempts home rule units. All of Cook County and municipalities with a population of more than 25,000 are home rule units unless a specific referendum was passed. The following is a list of home rule units in Illinois as of November 1, 1997.

| | | |
|-------------------|------------------|------------------|
| Addison | Flora | Park City |
| Alsip | Freeport | Park Forest |
| Alton | Galesburg | Park Ridge |
| Arlington Heights | Glendale Heights | Pekin |
| Aurora | Glen Ellyn | Peoria |
| Barrington Hills | Glenview | Peoria Heights |
| Bartlett | Glenwood | Peru |
| Bedford Park | Golf | Quincy |
| Belleville | Granite City | Rantoul |
| Berwyn | Hanover Park | Rockdale |
| Bloomington | Harvey | Rock Island |
| Bolingbrook | Harwood Heights | Rolling Meadows |
| Bryant | Highland Park | Rosemont |
| Buffalo Grove | Hoffman Estates | Sauget |
| Burbank | Joliet | Schaumburg |
| Burnham | Kankakee | Schiller Park |
| Cahokia | Lake Barrington | Sesser |
| Calumet City | Lansing | Skokie |
| Calumet Park | Lincolnshire | South Barrington |
| Carbondale | Lincolnwood | South Holland |
| Carpentersville | Manhattan | Springfield |
| Carol Stream | Marion | St. Charles |
| Champaign | Mascoutah | Standard |
| Channahon | Maywood | Stickney |
| Chicago | Mettawa | Stone Park |
| Chicago Heights | McCook | Streamwood |
| Chicago Ridge | Moline | Sycamore |
| Cicero | Monee | Thornton |
| Countryside | Morton Grove | Tinley Park |
| Crystal Lake | Mound City | University Park |
| Danville | Mount Prospect | Urbana |
| Decatur | Mt. Vernon | Valmeyer |
| Deerfield | Muddy | Watseka |
| DeKalb | Mundelein | Waukegan |
| Des Plaines | Murphysboro | West Dundee |
| Dolton | Naperville | Wheaton |
| Downers Grove | Naples | Wheeling |
| East Hazel Crest | National City | Wilmette |
| East St. Louis | Niles | Woodridge |
| Elgin | Normal | Cook County |
| | Norridge | |

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| | |
|-------------------|---------------|
| Elk Grove Village | North Chicago |
| Elmhurst | Oak Forest |
| Elmwood Park | Oak Lawn |
| Elwood | Oak Park |
| Evanston | Orland Park |
| Evergreen Park | Palatine |

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Section 860. TABLE A Minimum Road Width

Minimum Road Width
(In feet)

| | One Way Traffic | Two Way Traffic |
|-----------------------|-----------------|-----------------|
| No Parking on Streets | 18 | 24 |
| Parking on Streets | 24 | 30 |
| Parking on Both Sides | 30 | 36 |

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Section 860. TABLE B Water Distribution Pipe Size

| Inside Diameter of Main (In inches) | Maximum Number of Manufactured Home Sites Connected | Maximum Length of Main (In feet) |
|---|--|-------------------------------------|
| 2 | 20 | 600 |
| 3 | 60 | 1,800 |
| 4 | 120 | 3,600 |
| 6 | 400 | 12,000 |

NOTE: If local requirements exceed the above sizes, the local standards must be met.

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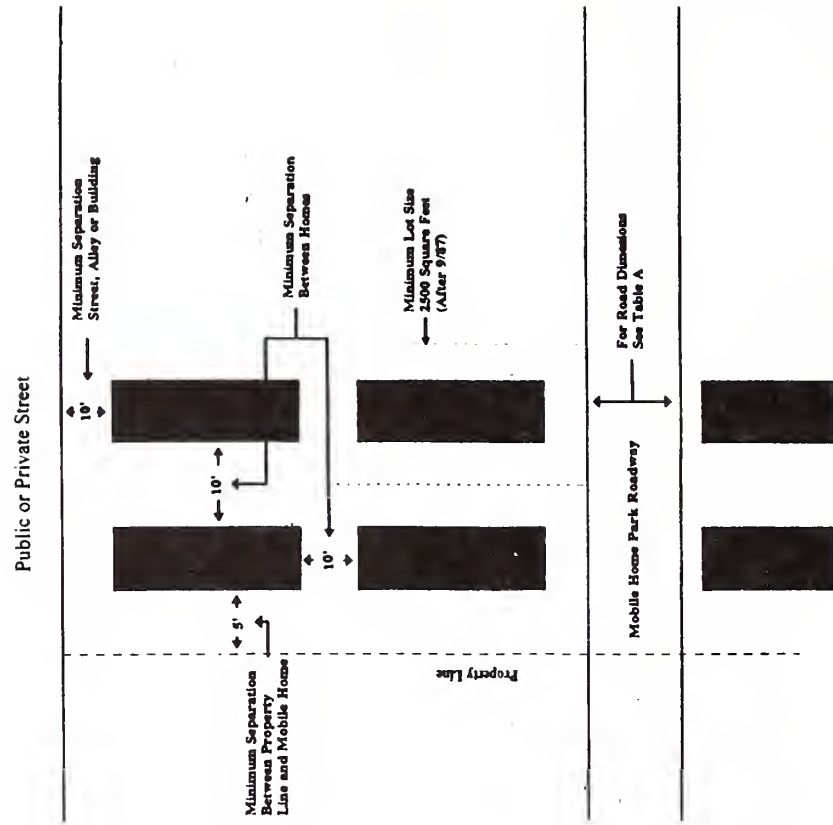
Section 860. TABLE C Minimum Size and Slope of Sewer Mains

| Number of Sites | Sewer Inside Diameter (Inches) | Minimum Slope |
|-----------------|--------------------------------|---------------|
| 1-125 | 6 | 0.75% |
| more than 125 | 8 | 0.40% |

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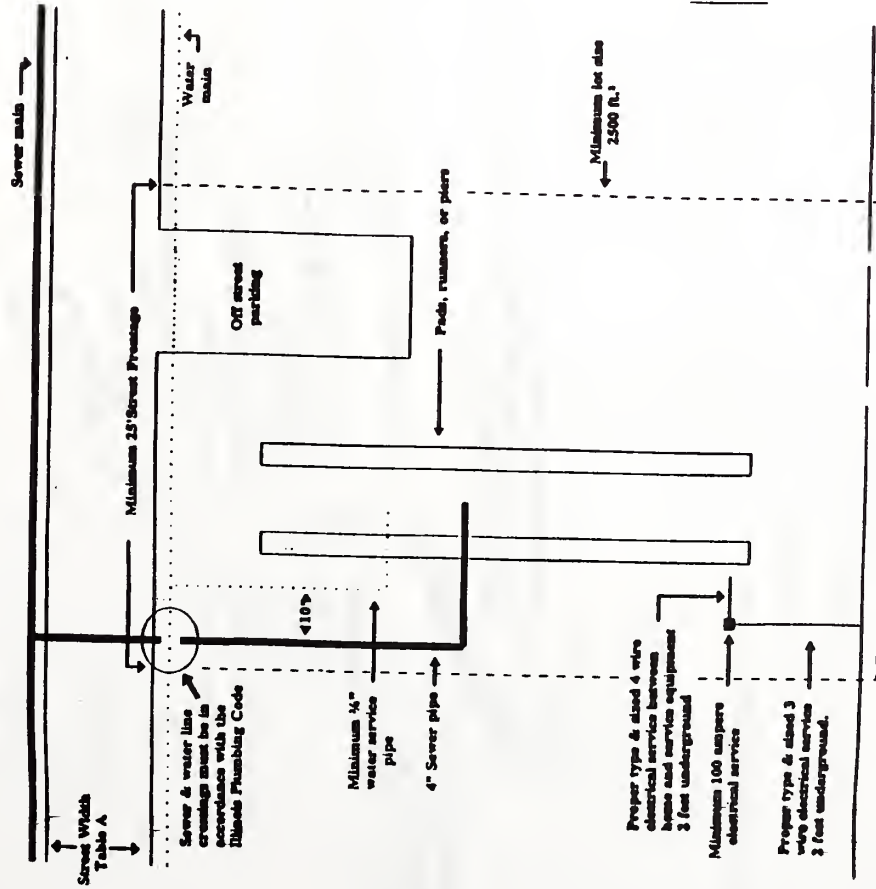
Section 860. ILLUSTRATION A Manufactured Home Community Layout For Sites Constructed After July 1, 1998



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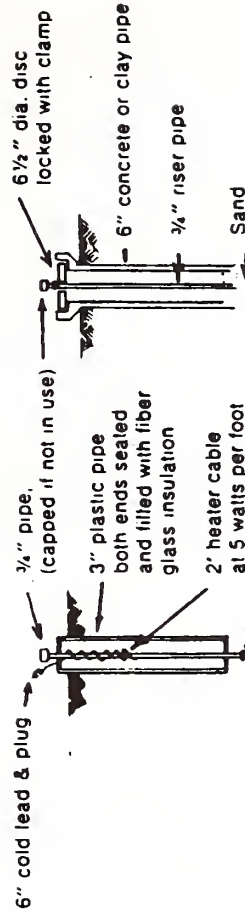
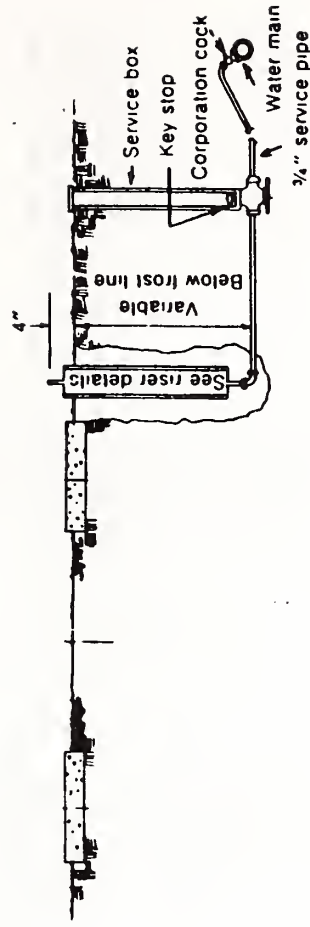
Section 860. ILLUSTRATION B Typical Manufactured Home Site



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Section 860. ILLUSTRATION C Water Service Connection

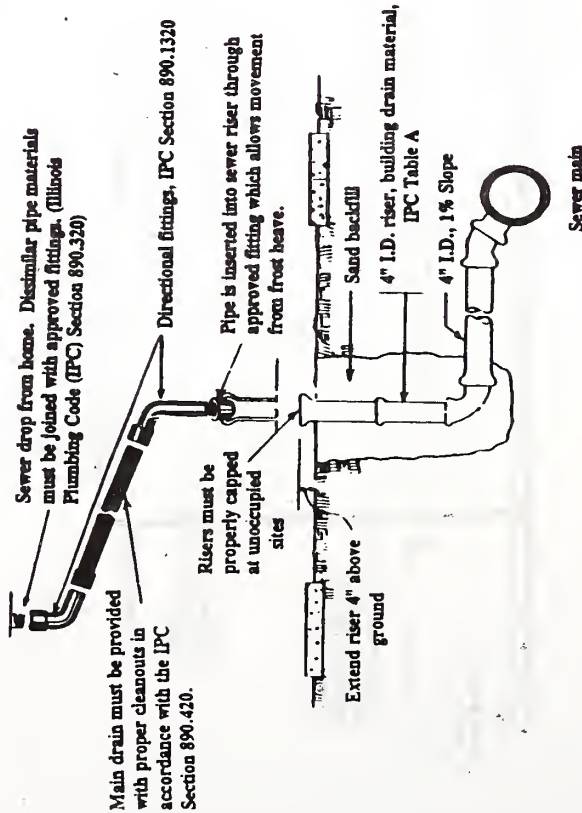


TYPE A
DETAIL OF WATER RISER PIPE
TYPE B

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Section 860. ILLUSTRATION D Sewer Service Connection



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Section 860. ILLUSTRATION E Sample Register Information

Address _____

Names of All Occupants of Home _____

Secretary of State Vehicle Identification Number _____

Dimensions of Home _____ Square Feet _____

Date Home Moved to Above Address _____

Name of Homeowner _____

Address of Homeowner _____

My signature below indicates concurrence with the above information. In addition, I concur that I was provided with the information specified in Section 860.400 of the Manufactured Home Community Code, which includes the manufactured home community rules, information regarding the tiedown of a home, safety tips in the event of a tornado, a copy of the Mobile Home Landlord and Tenants Rights Act, and the name and telephone number of the manufactured home community manager.

Signature of Owner/Occupant _____

(It is suggested that a separate page or card be devoted to each address and that the records be kept in address order. The records of residents who have moved must be kept for six years from the date of initial occupancy.)

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NOTICE OF ADOPTED REPEALER

- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain any Incorporation by Reference? Yes
- 8) Date Filed in Agency's Principal Office: May 8, 1998
- 9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: May 9, 1998; 21 Ill. Reg. 5698
- 10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking? No
- 11) Difference Between Proposal and Final Version: No changes were made between proposal and final version.
- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? No changes were requested by the Joint Committee on Administrative Rules.
- 13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No
- 14) Are there any Amendments Pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These repealed rules are replaced by new rules entitled "Manufactured Home Community Code" adopted at Part 860 and published in this issue of the Illinois Register.

Information and Questions Regarding this Adopted Repealer shall be directed to:

Gail M. DeVito
Administrative Rules Coordinator
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043

DEPARTMENT OF REVENUE
NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:
Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515/1
2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the First Quarter of 1998. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

| | |
|-------------------------------------|-------------------------------------|
| Agents | Manufacturing Machinery & Equipment |
| Agricultural Producers and Products | Medical Appliances |
| Assessments | Miscellaneous |
| Automobile Renting Tax | Motor Fuel Tax |
| Bingo | Motor Vehicles |
| Books and Records | Newsprint & Ink |
| Bulk Sales | Nexus |
| C.O.A.D. | Nonprofit Institutions |
| Certificate of Registration | Occasional Sale |
| Charitable Games | Oil Field Equipment |
| Cigarette Tax | Penalties |
| Claims for Credit | Pollution Control Facilities |
| Coal Fueled Devices | Prepaid Sales Tax |
| Coal Mining Equipment | Products of Photoprocessing |
| Coins & Precious Metals | Property Tax |
| Computer Software | Public Utility Taxes |

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Construction Contractors
 Cooperative Associations
 Delivery Charges
 Distillation Machinery
 Drug Tax Stamps
 Drugs
 Enterprise Zones
 Exempt Organizations
 Farm Machinery & Equipment
 Federal Excise Tax
 Financial Institutions
 Food
 Food, Drugs & Medical Appliances
 Governmental Bodies
 Graphic Arts
 Gross Receipts
 High Impact Business
 Hotel Operators' Tax
 Interest
 Interstate Commerce
 Itinerant Vendors
 Invested Capital Tax
 Leasing
 Liquor Tax
 Local Taxes
 Mandatory Service Charges
 Manufacturer's Purchase Credit
 Manufacturers

Real Estate Transfer Tax
 Repairs
 Replacement Vehicle Tax
 Request for Information
 Returns
 Rolling Stock Exemption
 Sale at Retail
 Sale for Resale
 Sale of Service
 Service Occupation Tax
 Signature
 Special Order
 Statute of Limitations
 Tax Collection
 Tax Increment Financing
 Tax Rate
 Telecommunications Excise Tax
 Temporary Storage
 Tire User Fee
 Trade-Ins
 Use Tax
 Vehicle Use Tax
 Vendors

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus \$.50 per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Margaret Forth
 Legal Services Office
 101 West Jefferson Street
 Springfield, Illinois 62794
 Telephone: (217) 782-6996

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 FIRST QUARTER SUNSHINE INDEX

BOOKS AND RECORDS

ST 98-0026-GIL 02/02/1998 The requirements related to the location of books and records of Illinois retailers are set out at 86 Ill. Adm. Code 130.801. (This is a GIL.)

ST 98-0037-GIL 03/25/1998 Generally, taxpayer should preserve books and records reflecting gross receipts received during any period for which the Department is authorized to issue a Notice of Tax Liability. See 86 Ill. Adm. Code 130.815. (This is a GIL.)

CERTIFICATE OF REGISTRATION

ST 98-0031-GIL 02/05/1998 Every person engaged in making retail sales in Illinois must register with the Department. See 86 Ill. Adm. Code 130.701. (This is a GIL.)

CIGARETTE TAX

ST 98-0015-GIL 01/21/1998 The Illinois Department of Revenue will not authorize alternatives to tax stamps for evidencing that Illinois Cigarette Tax has been paid on those packages of cigarettes. See, 86 Ill. Adm. Code 440.20. (This is a GIL.)

CLAIMS FOR CREDIT

ST 98-0029-GIL 02/05/1998 This letter provides a general discussion of claim for credit procedures. See 86 Ill. Adm. Code 130.1501. (This is a GIL.)

ST 98-0043-GIL 02/24/1998 Only persons who have actually paid tax to the Department can file claims to recover that tax. See 86 Ill. Adm. Code 130.1501. (This is a GIL.)

ST 98-0086-GIL 03/20/1998 This letter discusses claims for credit, sales for resale, and sales to governmental bodies. See 86 Ill. Adm. Code

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Sections 130.1501, 130.1405, and 130.2080. (This is a GIL.)

COMPUTER SOFTWARE

ST 98-0040-GIL 02/23/1998 Sales of canned computer software are subject to Retailers' Occupation Tax. See, 86 Ill. Adm. Code 130.1935. (This is a GIL.)

ST 98-0059-GIL 03/06/1998 Sales of "canned" computer software are taxable retail sales in Illinois. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

ST 98-0072-GIL 03/13/1998 Retailers' Occupation Tax is imposed upon persons selling canned computer software at retail. See 35 ILCS 120/2. (This is a GIL.)

ST 98-0080-GIL 03/18/1998 Licenses of computer software may not be subject to ROT if the agreements contain all the criteria set out in 86 Ill. Adm. code 130.1935(a)(1). (This is a GIL.)

CONSTRUCTION CONTRACTORS

ST 98-0037-GIL 02/20/1998 Persons who permanently affix tangible personal property to real estate act as construction contractors and incur Use Tax liability on their cost price of the items they physically incorporate into realty. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

ST 98-0046-GIL 02/25/1998 Construction contractors may make tax-free purchases of materials for incorporation into real estate owned by exclusively charitable, religious or educational institutions and governmental organizations provided that those organizations have active exemption identification numbers issued by the Department. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

ST 98-0063-GIL 03/09/1998 Construction contractors who physically incorporate tangible personal property into real estate owned by holders of "E" numbers can purchase such property tax-free. See, 86 Ill. Adm. Code 130.2075. (This is a GIL.)

DEPARTMENT OF REVENUE

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ST 98-0071-GIL 03/13/1998 In Illinois, construction contractors are deemed to be the end users of the building materials that they take off the market and permanently affix to real estate. As a result, these contractors incur a Use Tax liability on their cost price of the materials permanently affixed to real estate. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

ST 98-0074-GIL 03/13/1998 In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075 (This is a GIL.)

DELIVERY CHARGES

ST 98-0062-GIL 03/09/1998 Handling charges represent a retailer's cost of doing business, and are consequently always includable in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410. (This is a GIL.)

ENTERPRISE ZONES

ST 98-0018-GIL 01/22/1998 This letter discusses how to document tax-free sales of building materials that will be incorporated into real estate located in an enterprise zone. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)

FARM MACHINERY & EQUIPMENT

ST 98-0023-GIL 01/27/1998 Automated livestock feeding systems qualify for the Farm Machinery & Equipment exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

ST 98-0078-GIL 03/17/1998 Retailers' Occupation Tax does not apply to sales of farm machinery and equipment, both new and used and including that manufactured

DEPARTMENT OF REVENUE

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on special order, used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or Federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

FOOD

ST 98-0005-GIL 01/07/1998 Soft drinks do not include coffee, tea, non-carbonated water, various milk products, drinks containing 50% or more natural fruit or vegetable juice, powdered drink mixes or concentrated and reconstituted fruit juices. See 86 Ill. Adm. Code 130.310(b)(5). (This is a GIL.)

ST 98-0028-GIL 02/04/1998 Public Act 90-289 provides that nonreusable tangible personal property used by food and beverage vendors (such as restaurants, cafeterias or drive-ins) can be purchased tax free for resale when it is transferred to customers as part of the sale of food or beverages and is used to deliver, package, or consume food or beverages. (This is a GIL.)

ST 98-0105-GIL 03/27/1998 Soft drinks are always taxed at the 6.25% sales tax rate. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

FOOD, DRUGS & MEDICAL APPLIANCES

ST 98-0033-GIL 02/13/1998 Food that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) is taxed at the rate of 1% plus applicable local taxes. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 98-0039-GIL 02/23/1998 A medicine or drug is defined as any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and that purports on the label to have medicinal qualities. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 98-0099-GIL 03/27/1998 This letter discusses tax on food, drugs, and medical appliances and on freight

DEPARTMENT OF REVENUE

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charges. See 86 Ill. Adm. Code Sections 130.310, 130.410, and 130.415. (This is a GIL.)

GAS REVENUE TAX

ST 98-0070-GIL 03/12/1998 Landfills are subject to Gas Revenue Tax on sales of methane gas to qualified solid waste energy facilities. See 86 Ill. Adm. Code 470.110. (This is a GIL.)

GRAPHIC ARTS

ST 98-0024-GIL 01/29/1998 Photocopiers are specifically excluded from the graphic arts machinery and equipment exemption and their sales are subject to Retailers' Occupation Tax and Use Tax. See 86 Ill. Adm. Code 130.325(c)(4)(E). (This is a GIL.)

ST 98-0041-GIL 02/23/1998 Machinery and equipment used primarily in graphic arts production may qualify for the Graphic Arts Machinery and Equipment exemption from Retailers' Occupation Tax. 86 Ill. Adm. Code 130.325. (This is a GIL.)

ST 98-0089-GIL 03/24/1998 The Graphic Arts Machinery and Equipment Exemption extends to machinery and equipment that is used primarily (more than 50% of the time) in graphic arts production. See 86 Ill. Adm. Code 130.325. (This is a GIL.)

ST 98-0091-GIL 03/24/1998 Photocopiers are specifically excluded from the graphic arts machinery and equipment exemption and their sales are subject to Retailers' Occupation Tax and Use Tax. See 86 Ill. Adm. Code 130.325. (This is a GIL.)

GROSS RECEIPTS

ST 98-0011-GIL 01/16/1998 To change the reporting method from the accrual method to a gross receipts (cash) method, a taxpayer should attach a letter to the taxpayer's next month's return stating that the taxpayer has elected to change from the accrual method of reporting receipts to the gross receipts method. Taxpayers should use the "wash-out" procedure to reduce reporting problems when

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receipts on account are received in a month subsequent to the month of sale when a reporting change has been made. See 86 Ill. Adm. Code 130.401. (This is a GIL.)

HOTEL OPERATORS' TAX

ST 98-0044-GIL 02/25/1998 The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing or letting rooms. See 86 Ill. Adm. Code 480.101. (This is a GIL.)

ST 98-0085-GIL 03/20/1998 For purposes of the Hotel Operators' Occupation Tax, buildings in which the public may not, for a consideration, obtain living quarters, sleeping or housekeeping accommodations are not considered a hotel. See 86 Ill. Adm. Code 480.105. (This is a GIL.)

INTERSTATE COMMERCE

ST 98-0073-GIL 03/13/1998 Under the Retailers' Occupation Tax Act, tax does not apply where the seller delivers goods being sold from a point within Illinois to a point outside Illinois and the goods are not to be returned to Illinois. See 86 Ill. Adm. Code 130.605 (This is a GIL.)

LEASING

ST 98-0008-GIL 01/14/1998 For information regarding persons who rent or lease the use of tangible personal property to others, please see 86 Ill. Adm. Code 130.2010. (This is a GIL.)

ST 98-0038-GIL 02/23/1998 Under Illinois law, lessors under true lease agreements are deemed the users of items they purchase for rental purposes. Accordingly, lessors incur a Use Tax liability on such purchases. The only exception is the renter of automobiles under lease terms of one year or less. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

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ST 98-0054-GIL 02/27/1998 Lessors of tangible personal property under true leases in Illinois, are deemed end users of the property to be leased. The only exception is the rentor of automobiles under lease terms of one year or less. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 98-0065-GIL 03/10/1998 This letter contains general information concerning the taxation of automobiles purchased for purposes of leasing and renting. See 86 Ill. Adm. Code Sections 130.2005, 130.2010, 130.2012, 130.2080, 180.101, and 180.145. (This is a GIL.)

ST 98-0104-GIL 03/31/1998 Generally, lessors of tangible personal property under true lease agreements are deemed the users of items they purchase for rental purposes. Accordingly, lessors incur a Use Tax liability on such purchases. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

LOCAL TAXES

ST 98-0090-GIL 03/24/1998 In general, the imposition of the various sales tax related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. See, for example, 86 Ill. Adm. Code 270.115(b). (This is a GIL.)

ST 98-0101-GIL 03/30/1998 This letter discusses the Chicago Home Rule Use Tax and the Cook County Home Rule Use Tax. See 55 ILCS 5/5-1008 and 65 ILCS 5/8-11-6. (This is a GIL.)

MANUFACTURER'S PURCHASE CREDIT

ST 98-0017-GIL 01/22/1998 Security alarms or cameras do not generally qualify as production related tangible personal property. Fire alarm systems or sprinkler systems do not generally qualify as production related tangible personal property. See 86 Ill. Adm. Code 130.331(b)(3). (This is a GIL.)

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ST 98-0036-GIL 02/20/1998 For purposes of the Manufacturer's Purchase Credit, production related tangible personal property means all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place, and all tangible personal property used or consumed by a manufacturer in research and development regardless of use within or without a manufacturing facility. See 86 Ill. Adm. Code 130.331. (This is a GIL.)

ST 98-0060-GIL 03/06/1998 In addition to the exemption for manufacturing machinery and equipment, the State of Illinois provides a manufacturer's purchase credit (MPC) on the purchase of tangible personal property that qualifies for the manufacturing machinery and equipment exemption. See 35 ILCS 105/3-85 and 35 ILCS 110/3-70. (This is a GIL.)

MANUFACTURING MACHINERY AND EQUIPMENT

ST 98-0003-GIL 01/02/1998 The manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

ST 98-0034-GIL 02/13/1998 Corrects GIL 97-0171 by clarifying that gases are generally not exempt under 86 Ill. Adm. Code 130.330. (This is a GIL.)

ST 98-0049-GIL 02/25/1998 In general, the Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

ST 98-0053-GIL 02/26/1998 Corrects GIL 96-0150 by clarifying that gases are generally not exempt under the Manufacturing Machinery & Equipment Exemption.

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See, 86 Ill. Adm. Code 130.330. (This is a GIL.)

ST 98-0056-GIL 03/04/1998 The manufacturing machinery and equipment exemption is available for sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

ST 98-0096-GIL 03/25/1998 Exempt manufacturing equipment can include independent devices or tools separate from any machinery but essential to an integrated manufacturing or assembling process. See 86 Ill. Adm. Code 130.330(c)(3). (This is a GIL.)

MEDICAL APPLIANCES

ST 98-0007-GIL 01/14/1998 A medical appliance is an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 98-0042-GIL 02/24/1998 The lower rate of tax applies to modifications to a motor vehicle for the purpose of rendering it usable by a disabled person.

ST 98-0058-GIL 03/06/1998 A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See part (c) of Section 130.310. (This is a GIL.)

ST 98-0084-GIL 03/20/1998 The tax rate would be 1% if items such as crutches and wheelchairs directly substitute for a malfunctioning part of the body so as to qualify as medical appliances. See 86 Ill. Adm. Code 130.310(c)(2). (This is a GIL.)

ST 98-0102-GIL 03/30/1998 Medicines and medical appliances are not taxed at the normal State rate of 6.25%. These items are taxed at a lower State rate of 1%, plus applicable local taxes. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

MISCELLANEOUS

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ST 98-0013-GIL 01/16/1998 This letter discusses electronic commerce issues. See 86 Ill. Adm. Code 130.1935(a). (This is a GIL.)

ST 98-0016-GIL 01/22/1998 The general rule regarding changes in tax rate is that the rate in effect on the date of delivery determines the rate of taxation. See, 86 Ill. Adm. Code 130.101. (This is a GIL.)

ST 98-0035-GIL 02/20/1998 References typographical error. (This is a GIL.)

ST 98-0048-GIL 02/25/1998 The Department will not approve the accuracy of private legal publications. See, 86 Ill. Adm. Code 140.101 (This is a GIL.)

ST 98-0052-GIL 02/26/1998 The Retailers' Occupation Tax Act is imposed upon persons engaged in this State in the occupation of selling tangible personal property to purchasers for use or consumption. See, 86 Ill. Adm. Code 130.101 (This is a GIL.)

ST 98-0088-GIL 03/23/1998 This letter discusses taxation of photo booth photos, stickers sold from vending machines, and mechanical kiddie rides. See 86 Ill. Adm. Code Sections 1405, 2000, and 2135. (This is a GIL.)

MOTOR FUEL TAX

ST 98-0027-GIL 02/02/1998 Department regulations found at 86 Ill. Adm. Code 500.210 detail the manner in which tax-free sales of motor fuel by licensed distributors and suppliers must be documented. See Section 500.210. (This is a GIL.)

ST 98-0081-GIL 03/18/1998 This letter discusses the taxation of motor fuel and the sales tax exemption for interstate commerce. See 35 ILCS 120/1 et seq., 35 ILCS 505/1 et seq., and 86 Ill. Admin. Code 130.605. (This is a GIL.)

NEXUS

ST 98-0012-GIL 01/16/1998 An Illinois retailer is one who

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either accepts purchase orders in the State of Illinois or maintains an inventory in Illinois and fills orders from that inventory. The Illinois retailer is liable for Retailers' Occupation Tax on gross receipts from sales and must collect the corresponding Use Tax incurred by purchasers. See, 86 Ill. Adm. Code 150.101. (This is a GIL.)

ST 98-0083-GIL 03/19/1998 This letter discusses the issue of nexus. See Quill v. North Dakota, 112 S. Ct. 1902 (1992). (This is a GIL.)

OCCASIONAL SALE

ST 98-0051-GIL 02/26/1998 Isolated or occasional sales of tangible personal property at retail by persons who do not hold themselves out as being engaged (or who do not habitually engage) in selling such tangible personal property at retail do not constitute engaging in a business of selling such tangible personal property at retail. See 86 Ill. Adm. Code 130.110. (This is a GIL.)

POLLUTION CONTROL FACILITIES

ST 98-0025-GIL 01/30/1998 Equipment items that confer an economic benefit upon users do not have a primary purpose of pollution control and do not qualify for the exemption. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

ST 98-0045-GIL 02/25/1998 Pollution control facilities are exempt from the Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

ST 98-0087-GIL 03/20/1998 The exemption for pollution control facilities includes not only the pollution control equipment itself, but also replacement parts therefor. However, it does not extend to fuel used in operating any such equipment nor to any other tangible personal property which may be used in some way in connection with such equipment, but which is not an integral part of the equipment itself. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

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ST 98-0093-GIL 03/24/1998 Equipment which is used for the primary purpose of reducing or eliminating pollution can qualify for the Pollution Control Facilities exemption. Equipment which is used primarily to provide an economic benefit cannot qualify for the exemption. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

PUBLIC UTILITY TAXES

ST 98-0055-GIL 02/27/1998 The Energy Assistance Charge is a charge assessed by each public utility, electric cooperative, as defined in Section 3.4 of the Electric Supplier Act, and municipal utility, as referenced in Section 3-105 of the Public Utilities Act, that is engaged in the delivery of electricity or the distribution of natural gas within the State of Illinois upon each of its customer accounts. See 305 ILCS 20/13. (This is a GIL.)

ST 98-0061-GIL 03/06/1998 The Energy Assistance Charge is assessed by each public utility, electric cooperative, as defined in Section 3.4 of the Electric Supplier Act, and municipal utility, as referenced in Section 3-105 of the Public Utilities Act, that is engaged in the delivery of electricity or the distribution of natural gas within the State of Illinois upon each of its customer accounts. See 305 ILCS 20/13. (This is a GIL.)

ST 98-0069-GIL 03/12/1998 The Energy Assistance Charge is assessed by each public utility, electric cooperative, as defined in Section 3.4 of the Electric Supplier Act, and municipal utility, as referenced in Section 3-105 of the Public Utilities Act, that is engaged in the delivery of electricity or the distribution of natural gas within the State of Illinois upon each of its customer accounts. See 305 ILCS 20/13. (This is a GIL.)

ROLLING STOCK EXEMPTION

ST 98-0050-GIL 02/26/1998 The Retailers' Occupation Tax Act

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provides an exemption for personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors of such interstate carriers. See 35 ILCS 120/2-5(12) and (13) (1996 State Bar Edition). See, 86 Ill. Adm. Code 130.340. (This is a GIL.)

ST 98-0067-GIL 03/12/1998 The Retailers' Occupation Tax does not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce. See 86 Ill. Adm. Code 130.340. (This is a GIL.)

SALE AT RETAIL

ST 98-0010-GIL 01/16/1998 Illinois retailer is one who either accepts purchase orders in the State of Illinois or maintains an inventory in Illinois and fills orders from that inventory. The Illinois retailer is liable for Retailers' Occupation Tax on gross receipts from sales and must collect the corresponding Use Tax incurred by purchasers. (This is a GIL.)

ST 98-0014-GIL 01/20/1998 Sales by persons such as undertakers, funeral directors and cemeteries are deemed to be retail sales of tangible personal property for use or consumption regardless of the fact that the item may be sold in conjunction with other funeral services or entombment. See 86 Ill. Adm. Code 130.2130. (This is a GIL.)

ST 98-0021-GIL 01/27/1998 The Illinois legislature authorized retailers subject to Home Rule Municipal Retailers' Occupation Taxes to reimburse themselves for their liability by separately stating these taxes to their customers. It is the Department's belief that once the retailer exercises his option to seek reimbursement from the customer, the customer is under a legal obligation to reimburse the retailer. See 86 Ill. Adm. Code 270.101. (This is a GIL.)

SALE FOR RESALE

ST 98-0032-GIL 02/09/1998 Certificates of Resale should

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contain all of the information required by 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 98-0057-GIL 03/06/1998 Whether labels or ink can be purchased for resale depends upon whether the label can be considered a part of the packaging. A label is part of the packaging when it is primarily of benefit and utility to the ultimate purchaser of the item to which the label is attached. However, when the label is primarily for the benefit of the seller of the item, the label is taxable. For example, price tags and bar code labels are primarily for the benefit of the seller and therefore cannot be purchased for resale. Labels that list product ingredients, consumer information, or cooking or storage instructions are for the benefit of the purchaser and may be purchased for resale. (This is a GIL.)

ST 98-0077-GIL 03/17/1998 When retailers buy tangible personal property from vendors that they will resell to purchasers, they may purchase such items tax-free by providing their vendors with properly executed Certificates of Resale. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 98-0079-GIL 03/17/1998 Whether labels or ink can be purchased for resale depends upon whether the label can be considered a part of the packaging. A label is part of packaging when it is primarily of benefit and utility to the ultimate purchaser of the item to which the label is attached. However, when the label is primarily for the benefit of the seller of the item, the label is taxable. For example, price tags and bar code labels are primarily for the benefit of the seller and therefore cannot be purchased for resale. Labels that list product ingredients, consumer information, or cooking or storage instructions are for the benefit of the purchaser and may be purchased for resale. (This is a GIL.)

ST 98-0092-GIL 03/24/1998 In order to document that transactions are sales for resale, retailers should obtain Certificates of Resale from their customers that contain the information required by 86 Ill. Adm. Code 130.1405. (This is a GIL.)

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SERVICE OCCUPATION TAX

ST 98-0001-PLR 01/29/1998 How repairmen's sales are taxed depends on whether or not they agree to send their customer's equipment or components thereof back to that customer. See 86 Ill. Adm. Code 130.2015. (This is a PLR.)

ST 98-0001-GIL 12/31/1997 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 98-0002-GIL 01/02/1998 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 98-0006-GIL 01/09/1998 This letter discusses possible Retailers' Occupation Tax, Service Occupation Tax, Service Use Tax, Use Tax, and Telecommunications Excise Tax liabilities of a message forwarding service. See 86 Ill. Adm. Code 495.100 et seq. and 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 98-0030-GIL 02/05/1998 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 98-0066-GIL 03/11/1998 A veterinarian is engaged in a service occupation subject to the Service Occupation Tax. The Service Occupation Tax is a tax imposed upon tangible personal property transferred as an incident of the sale of service. See 86 Ill. Adm. Code 140.101 (This is a GIL.)

ST 98-0075-GIL 03/16/1998 Under the Service Occupation Tax Act, servicemen are taxed when tangible personal property is transferred incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 98-0095-GIL 03/24/1998 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service.

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See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 98-0100-GIL 03/30/1998 Under the Service Occupation Tax Act (35 ILCS 115/1 et seq.), servicemen are taxed on tangible personal property transferred incident to sales of service. (This is a GIL.)

ST 98-0103-GIL 03/30/1998 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

ST 98-0004-GIL 01/06/1998 Generally, persons who provide subscribers access to the Internet and who do not, as part of that service, charge customers for the line or other transmission charges which are used to obtain access to the Internet, are not considered to be telecommunications retailers from these activities. See, 86 Ill. Adm. Code 495.110. (This is a GIL.)

ST 98-0009-GIL 01/16/1998 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications by a person in this State at the rate of 5% of the gross charges purchased at retail from a retailer by such a person. See, 86 Ill. Adm. Code 495.100. (This is a GIL.)

ST 98-0019-GIL 01/22/1998 This letter discusses the taxation of prepaid telephone cards. See 35 ILCS 630/1 et seq. (This is a GIL.)

ST 98-0022-GIL 01/27/1998 This letter discusses generally the application of the Telecommunications Excise Tax to services provided by Internet access providers. See 86 Ill. Adm. Code Part 495. (This is a GIL.)

ST 98-0047-GIL 02/25/1998 Sales of telecommunications services are subject to the Telecommunications Excise Tax Act. 35 ILCS 630/1 et seq. (1996 State Bar Edition). (This is a GIL.)

ST 98-0064-GIL 03/09/1998 Under the Telecommunications Excise Tax Act, a "retailer maintaining a place of

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business in this State" includes any retailer having or maintaining within Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within Illinois under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State. See 35 ILCS 630/2(m) (1996 State Bar Edition). (This is a GIL.)

ST 98-0076-GIL 03/16/1998 This letter discusses applicability of the Telecommunications Excise Tax to such services as voice mail and chat lines. See 86 Ill. Adm. Code Part 495. (This is a GIL.)

ST 98-0082-GIL 03/19/1998 The Telecommunications Excise Tax Act ("Act") is imposed upon the act or privilege of originating or receiving interstate or intrastate telecommunications in this State which are purchased at retail from a retailer. See 35 ILCS 625/3 and 35 ILCS 625/4. (This is a GIL.)

ST 98-0094-GIL 03/24/1998 This letter discusses the taxation of telephone cards. See 86 Ill. Adm. Code Part 495. (This is a GIL.)

ST 98-0098-GIL 03/25/1998 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% (increased from 5%, effective January 1, 1998) of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code Part 495. (This is a GIL.)

TEMPORARY STORAGE

ST 98-0068-GIL 03/12/1998 Temporary storage is not applicable in transactions where there is ROT liability because this exemption is limited to situations where the only liability that can be involved is Use Tax. See 86 Ill. Adm. Code 150.310. (This is a GIL.)

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VEHICLE USE TAX

ST 98-0020-GIL 01/27/1998 Section 3-1001 of the Illinois Vehicle Code, 625 ILCS 5/3-1001 (1996 State Bar Edition), imposes a tax on the "privilege of using, in this State, any motor vehicle as defined in the Code acquired by gift, transfer, or purchase." The transfer of a motor vehicle title from a trust to an individual is such a transfer subject to the Vehicle Use Tax. (This is a GIL.)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of May 5, 1998 through May 11, 1998 and have been scheduled for review by the Committee at its May 19, 1998 meeting in Springfield or its June 16, 1998 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

| Second Notice Expires | Agency and Rule | Start of First Notice | JCAR Meeting |
|-----------------------|--|---------------------------------|--------------|
| 6/18/98 | Secretary of State, Rulemaking (1 Ill Adm Code 100) | 3/20/98 22 Ill Reg 5416 | 5/19/98 |
| 6/20/98 | State Board of Education, Evaluation of Certified School District Employees in Contractual Continued Service (23 Ill Adm Code 50) | 1/9/98 22 Ill Reg 1081 | 6/16/98 |
| 6/21/98 | Illinois Commerce Commission, Relocation Towing (92 Ill Adm Code 1710) | 10/24/97 21 Ill Reg 13960 | 6/16/98 |
| 6/21/98 | Department of Transportation, Inspection Procedures for Type II School Buses (92 Ill Adm Code 443) | 2/6/98 22 Ill Reg 2914 | 6/16/98 |
| 6/21/98 | Illinois Commerce Commission, Repeal of Imposition of Sanctions Including the Suspension or Revocation of Licenses and/or the Assessment of Civil Penalties (92 Ill Adm Code 1730) | 10/24/97 21 Ill Reg 13955 | 6/16/98 |
| 6/21/98 | Illinois Commerce Commission, Repeal of Standards for the Assessment of Civil Penalties (General Order 4 (R)) (92 Ill Adm Code 1740) | 10/24/97 21 Ill Reg 13986 | 6/16/98 |
| 6/21/98 | Illinois Commerce Commission, Repeal of Uniform System of Accounts for Relocators (92 Ill Adm Code 1720) | 10/24/97 21 Ill Reg 13990 | 6/16/98 |

PROPOSED

ADOPTED

14-145-17

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17-660-19

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